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State Lands, dept. of  
Report. Biennial

# STATE OF MONTANA



## REPORT

OF THE

# Commissioner of State Lands and Investments

For the Two Fiscal Years  
Beginning July 1st, 1926, and  
Terminating June 30th, 1928.

TO

THE HONORABLE J. E. ERICKSON  
Governor



I. M. BRANDJORD  
Commissioner of State Lands and Investments

NANITA B. SHERLOCK  
Assistant Commissioner

L. E. CHOQUETTE  
State Land Agent



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**AMENDMENT TO ENABLING ACT  
PERMITTING MINERAL LEASES  
FOR A PERIOD NOT EXCEEDING TWENTY YEARS**

In view of the fact that Section 11 of the Enabling Act as originally written restricts the term of leases to five years and also in view of the fact that a five-year term is regarded as being entirely too short for mineral leases, the following amendment to the Enabling Act approved August 11, 1921, is of considerable importance and interest to this state:

**Public No. 48—67th Congress S. 252**

An act to Amend an Act approved Feby. 22, 1889, entitled "An Act to provide for the division of Dakota into two States and to enable the people of North Dakota, South Dakota, Montana, and Washington to form constitutions and State governments, and to be admitted into the Union on an equal footing with the original States, and to make donations of public lands to such States."

BE IT ENACTED BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE UNITED STATES OF AMERICA IN CONGRESS ASSEMBLED, That Section 11 of the Act entitled "(Quoted above)" approved February 22, 1889, be, and the same hereby is, amended by adding the following: Provided, However, That the State may, upon such terms as it may prescribe, grant such easements or rights in such lands as may be acquired in, to, or over the lands of private properties through proceedings in eminent domain: AND PROVIDED FURTHER, That any of such granted lands found, after title thereto has vested in the State, to be mineral in character, may be leased for a period of not longer than twenty years upon such terms and conditions as the legislature may prescribe.

STATE OF MONTANA

REPORT

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and Investments

For the Two Fiscal Years  
Beginning July 1st, 1926, and  
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OFFICERS OF THE DEPARTMENT OF  
STATE LANDS AND INVESTMENTS:

The State Board of Land Commissioners is the governing board created  
by Section 4 of Article XI of the Constitution, and consists  
of the following officers:

Hon. J. E. Erickson, Governor, President.  
Hon. May Trumper, Superintendent of Public Instruction.  
Hon. John W. Mountjoy, Secretary of State.  
Hon. L. A. Foot, Attorney General.

Officers Under this Board:

I. M. BRANDJORD,  
Commissioner and Secretary to the Board.

NANITA B. SHERLOCK,  
Assistant Commissioner.

L. E. CHOQUETTE,  
State Land Agent.

RUTLEDGE PARKER,  
State Forester. (Address Missoula)

L. L. WHITE,  
Forest Warden.

# OFFICERS OF STATE LAND DEPARTMENT FROM 1891 TO 1928

## STATE BOARD OF LAND COMMISSIONERS

YEAR	Governor	Supt. Pub. Inst.	Serv. of State	Atty. General	REGISTER**	LAND AGENT	STATE FORESTER
1890-1892	Jos. K. Toole	John Gannon	L. Rotwitt	H. J. Haskell		Granville Stuart	
1893-1894	John E. Rickards	E. A. Steere	L. Rotwitt	H. J. Haskell	S. A. Swiggert Appd. 3/25/1895	R. O. Hickman	
1895-1896	John E. Rickards	E. A. Steere	L. Rotwitt	H. J. Haskell	H. D. Moore	J. M. Page I. M. Page Henry Neill	
1897-1900	Robt. B. Smith	E. A. Carleton	T. S. Hogan	C. B. Nolan	Thos. D. Long John P. Schmit John P. Schmit	Henry Neill	
1901-1904	Jos. K. Toole	W. W. Welch	Geo. M. Hays	James Donovan	F. H. Ray	Henry Neill	
1905-1908	Jos. K. Toole	W. E. Harmon	A. N. Yoder	Albert J. Galen	Sidney Miller	C. A. Whipple	C. W. Jungberg
1909-1912	Edw. L. Norris	W. E. Harmon	T. M. Swindlehurst	Albert J. Galen	Sidney Miller	C. A. Whipple	John C. Van Hook
1913-1916	S. V. Stewart	H. A. Davee	A. M. Alderson	D. M. Kelly J. B. Poindexter	Sidney Miller	C. A. Whipple	John C. Van Hook
1917-1920	S. V. Stewart	May Trumper	C. T. Stewart	S. C. Ford	H. V. Bailey	Geo. W. Cook	R. P. McLaughlin
1921-1924	Jos. M. Dixon	May Trumper	C. T. Stewart	W. D. Rankin	I. M. Brandjord	L. E. Choquette	Rutledge Parker
1925-1926	J. E. Erickson	May Trumper	C. T. Stewart**	L. A. Foot	I. M. Brandjord	L. E. Choquette	Rutledge Parker
1926-1928	J. E. Erickson	May Trumper	J. W. Mountjoy	L. A. Foot	I. M. Brandjord	L. E. Choquette	Rutledge Parker

\* Mr. Foot served the last four months of Mr. Rankin's term in 1924.

It will be noted that there was a State Land Agent before there was a Register of State Lands. Mr. Granville Stuart, the first Land Agent, was appointed under an act of the state legislature approved March 6, 1891. The office of Register of State Lands was created by an act of the state legislature approved March 7, 1895. Mr. S. A. Swiggert was the first Register and assumed the duties of the office on March 25, 1895. Prior to the creation of the office of the Register the greater part of the routine business of the Land Office was transacted directly by the State Board of Land Commissioners. The Superintendent of Public Instruction acted as its secretary, and continued to serve in that capacity until March 19, 1909, on which date a general revision and codification of the State land laws took effect, under which the Register acts as secretary.

\*\* From and after July 1, 1928, the official title of the Register is Commissioner of State Lands and Investments.

\*\*\* The services of C. T. Stewart as Secretary of State terminated on March 4, 1927; R. N. Hawkins served as Secretary from March 5th to May 1st, 1927; William Powers served as Secretary from May 1st, 1927, to April 15, 1928, and John W. Mountjoy assumed the office April 16, 1928.

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Helena, Montana, September, 1928.

Hon. J. E. Erickson,  
Governor of the State of Montana.

My dear Governor:

With the fond hope that the administration of this department during the last two-year period has been such as to form a part, however small, of your comprehensive program of faithful and unselfish service to all the people of the Treasure State, this simple report is hereby most gratefully submitted.

The two years embraced by this report have been rich in auspicious events for the Department of State Lands and Investments. Following your recommendations the last Legislative Assembly enacted what may be regarded as a new code of laws relating to this department, embodied in Chapter 60 of the 1927 Session Laws. This Act reorganizes and unifies the department under the name of the Department of State Lands and Investments, amends the main body of the former statutes governing its administration, and adds new statutes greatly increasing its capacity for service and usefulness to the people of the state.

Other state legislation of a constructive nature has also been enacted favorably affecting this department. Prior to your administration there were practically no statutes governing the leasing of state lands for oil and gas production. Such statutes have now been enacted and are found in Chapter 108 of the 1927 Session Laws. Careful study of this legislation will show that it fully protects the interests of the State in full harmony with the letter and spirit of our Constitution; and experience has abundantly demonstrated that oil operators find it acceptable and workable. As this great industry is probably yet in its infancy in our state the just and equitable legislation enacted on this subject is of fundamental and far-reaching importance.

As this department is now purchasing nearly all the school district bonds issued throughout the state, the laws relating to such bonds are of vital importance. Before the last session of the State Legislature, these statutes had become so complicated through amendments and amendments to amendments that they caused a great deal of unnecessary trouble to school districts issuing bonds. With your approval and encouragement this department prepared a proposed bill revising nearly all the statutes on this subject, which was placed before the legislature, enacted into law without important changes, and is now embodied in Chapter 147 of the 1927 Session Laws. This legislation prescribes in a clear and orderly manner the proceedings required for the issuance of such bonds and has proved exceedingly helpful to the numerous school districts that have issued bonds since it went into effect. It is also helpful to this department as it requires less correspondence and explanation than the former complicated statutes.

The last session of the legislature also enacted statutes giving to the State a preference right to purchase State General Fund Warrants

with funds under the control of the State Board of Land Commissioners. Owing to the splendid credit enjoyed by the State of Montana during your administration, it had become increasingly difficult to secure State warrants for investment. As a result the State Board of Land Commissioners found it next to impossible to secure suitable short-time investments for the public school interest and income fund and similar funds under its administration. The legislation on this subject embodied in Chapter 15 of the 1927 Session Laws largely solves this problem and is resulting in additional income for the school districts of the state.

During the same time that this constructive legislation was enacted in the State of Montana, the Congress of the United States passed a bill granting to this state and other states of the Northwest, school sections of a mineral character, thereby giving to this state secure title to vast areas of its most valuable lands to which the title previously was in doubt. This legislation, so exceedingly helpful and valuable to the State of Montana, is embodied in Senate Bill 564 approved by the President January 25, 1927. The coal, oil, gas, metals and other hidden wealth in the lands affected by this new grant may eventually add millions to the permanent funds of our schools and state institutions of learning.

It is thought that improvements and progress within the department have in some measure kept pace with this new and constructive legislation. In order to comply with the new statutes it was necessary to provide numerous new books and records; and amended forms have been provided for agricultural and grazing leases, coal-mining leases, oil and gas leases, prospecting permits, sales contracts, bonding proceedings and numerous other instruments. In fact, nearly all the forms of the department have been revised and we believe improved.

New accounts have been opened up and maintained showing more in detail the vast assets and resources under the administration of the department, including investments. We have placed into binders thousands of U. S. plats embracing state lands, and have arranged and bound into permanent records all the clear lists or patents issued to this state by the federal government from 1889 and down to the present time. These valuable documents make up eight volumes and embrace more than two million acres of land.

Based on these patents and other documents, we have planned a complete record showing the history, title and status to every forty-acre tract granted to the State. One of the valuable features of this record will be that it will show up any and all lands lost to the State from any cause whatever and make it possible to select other lands in place of those lost.

More than one hundred thousand acres of new lands have been selected having a value exceeding one million dollars; general land sales have been conducted in twenty-three counties and the total sales amount to more than one million one hundred fifty thousand dollars.

The business of the department has increased in a most gratifying manner; the receipts for the public school income fund during the last



fiscal year exceeded \$1,372,000.00, which is just about \$400,000.00 above the highest income ever reached during the boom period of the state prior to the year 1925, and the income for the other funds has increased in proportion.

During the last two fiscal years the State Board of Land Commissioners has invested through this department in bonds and warrants more than seven and one-half million dollars; and it is claimed without any reservation that unless some calamity of nature should befall the state, not one single dollar of all these millions will be lost. These investments have been of inestimable value to the taxpayers of the state in furnishing money for school buildings, water works and other constructive purposes at a reasonable rate of interest and on the best repayment plan that modern finance has so far devised, namely, the amortization plan.

Without taking into account the new lands selected, and figuring the unsold lands at the same figure as formerly, namely, the minimum sales price of \$10.00 per acre, the permanent assets of the department have increased more than three-quarters of one million dollars during the last two years and now reach the huge sum of more than \$68,000,000.00.

You will find the new legislation enacted and the various activities of the department somewhat fully stated and discussed throughout the report.

While we are discussing this department and its activities in the terms of statutes and measuring its success in figures and dollars, we should not overlook its deeper significance. It originates in the federal land grants to the State of Montana, and these grants originate with the founders of the Republic, in their prophetic vision of a great, free and enlightened people. They founded the Republic on the education, enlightenment and liberty of its citizens. For this reason they established free public schools and set aside large bodies of land for their perpetual maintenance. As a result of this policy nearly one-sixteenth of the State of Montana was set aside for the support of schools and colleges.

It is the worthy object and purpose of this department to administer this vast heritage and the funds derived therefrom in such manner that they may contribute in the fullest measure to the maintenance of these vital institutions; they carry out the lofty purpose of the Fathers; they spread the sacred light of knowledge, enrich the life of the individual citizen, and constitute a living force in the building and preservation of the Republic.

Very gratefully,

I. M. BRANDJORD,  
Commissioner of State  
Lands and Investments.

## STATE LEGISLATION ENACTED IN 1927

In writing the report of this department for the period beginning July 1, 1926, and terminating June 30, 1928, it seems fitting and proper to begin with a brief account of the legislation enacted by the Twentieth Legislative Assembly relating to its organization and operation. This legislation undoubtedly marks the beginning of a new epoch in the history of the Department of State Lands and Investments.

### Recommended by Governor J. E. Erickson

On September 21, 1926, the Governor recommended to the State Board of Land Commissioners that the statutes relating to the State Land Office be revised and codified in order to meet the many changes that had taken place in the state since 1909 when the main body of these statutes was enacted. Pursuant to this recommendation, the Register of State Lands, now called Commissioner of State Lands and Investments, prepared a draft of proposed legislation revising practically all the statutes relating to the State Land Office, except the laws relating to the State Forester and State forest lands, and including a great number of new statutes on the subject. This draft was carefully checked and studied by Frank Woody and Edmond G. Toomey, both attorneys of Helena, and many valuable changes were suggested by them; neither one asked or received one single cent of compensation for this valuable work. This proposed legislation was placed before the Twentieth Legislative Assembly in pamphlet form and recommended by the Governor in his message.

### Careful Consideration by the Legislature

The Committee on State Lands in the Senate and the same committee of the House commenced joint hearings on this proposed legislation from the beginning of the session and continued these hearings for several weeks. The committee eliminated from the bill all provisions relating to new investments in farm mortgages; the discouraging experience of the State with the farm loans already made was not conducive to the adoption of any new plan for making such loans. The provisions for leasing State lands for oil and gas exploration and development were segregated from the bill by the House, but subsequently its main features were incorporated in a separate measure. The House eliminated all provisions for public leasing of State lands at county seats, and this was the most serious accident that happened to the measure, as some system of this kind is urgently needed.

The remainder of the proposed legislation, amended to some extent, was enacted into law as Chapter 60 of the 1927 Session Laws. The committees having this measure in charge did a great deal of painstaking work on the proposed legislation; many of the members on these committees deserve special mention for their meritorious work, but especially Senator James Griffin of Blaine county, Representative Albert Holton of Garfield county, and Representative Dennis A. Dellwo of Lake county.

If it were not for the strong, enthusiastic and unselfish support of these three men, it is not likely that this great measure of constructive legislation would have been enacted into law. It is undoubtedly one of the outstanding achievements of the Twentieth Legislative Assembly.

### **Reorganizes and Unifies the Department**

This act reorganizes the State Land Office under the name of "The Department of State Lands and Investments," and places the responsibility for its administration on the Commissioner acting under the State Board of Land Commissioners. Probably this unification of the department is the most valuable feature of the measure. Previous to the enactment of this legislation the Governor appointed the Register of State Lands, the Deputy Register of State Lands and the State Land Agent; under the new legislation the Governor appoints the Commissioner by and with the consent of the Senate, and the Commissioner appoints the other officers. On account of the perfect harmony now prevailing among the various officers of the department, this unification is not of any special importance at the present time, but it can readily be seen that it is of far-reaching importance for the efficient administration of the office in future years; organization is the foundation of modern business.

### **Co-ordinates Its Activities**

Under the usage which has prevailed in the State Land Office from its establishment, leases have expired on any one of the three hundred and sixty-five days of the year. The change in the seasons had been entirely ignored. More than one-half of all leases issued have expired during the spring, summer or autumn when crops are being planted, or are in the midst of their growth, or are being harvested. As a result of this practice, lessees of state land have suffered much annoying uncertainty, great inconvenience and very considerable losses. These losses to the lessees have also resulted in losses to the State.

On January 20, 1926, the State Board of Land Commissioners decided to change this policy and have all agricultural and grazing leases issued after that time expire on February 28th. This important change was embodied in the new legislation, Section 24, and constitutes a vast improvement in the leasing policy of the State.

Fitting into this provision for the time of lease expirations, the same act further provides that when lands under lease are sold by the State, the purchaser shall be given possession by the State on March 1st next succeeding the date of sale and not before except through special agreement between the purchaser and the lessee. (Section 84.) This co-ordination is proving very helpful both to lessees and purchasers.

### **Provision for Easements for Public Highways, School House Sites, Etc.**

Section 57 of the Act makes suitable provision for the granting of easements in State lands for school house sites and grounds, for public

parks, community buildings, cemeteries and other public uses. The former statutes relating to this subject were entirely inadequate. Section 58 provides for the establishment of public highways on State land section lines without proceedings before the State Board of Land Commissioners, and this saves a great deal of unnecessary proceedings both for the county authorities and State officials. Section 61 and 62 make it absolutely plain that when easements are wanted for public highways or for railways over State lands outside of section lines, proper compensation and damages must be paid to the State in full harmony with the provisions of the Constitution.

### **Better Protection Both to the State and Its Clients**

State lands in Montana have at all times been sold on some form of installment plan, and originally a bond was required of the purchaser for the payment of the deferred installments. This was undoubtedly in full harmony with the requirements of Section 1 of Article XVII of the Constitution to the effect that no State land nor any estate or interest therein shall ever be disposed of unless the full market value of the estate or interest disposed of has been paid or safely secured to the State. In harmony with this requirement, bonds were formerly required under leases also; but experience has abundantly shown that such bonds too often are more of a delusion than a protection, and as a result they were abolished by the legislature years ago. This new legislation grants to the State a lien on crops and improvements on the land leased or sold for due and delinquent payments. This affords some real protection without imposing upon the lessee or the purchaser the inconvenience and expense of securing a bond. As far as it goes it also fulfills the constitutional requirement for security of payment.

### **Mineral Reservations, Prospecting Permits, and Mining Leases**

All mineral lands were exempted from the grants made to the State by the Enabling Act, and probably as a result of this exemption very little legislation has been enacted in regard to State mineral lands prior to 1927. The State has nevertheless secured some lands of mineral character and subsequent legislation by Congress, which will be discussed later on in this report, has confirmed title to these lands in the state. Taking recognition of these circumstances the new legislation makes additional reservations of minerals in State lands in conformity with the federal legislation. Under the legislation enacted in 1909, coal, oil and gas were reserved from sale; under the new legislation, the other valuable minerals are also reserved. (Section 65.) Provision is also made for prospecting permits and mining leases on such lands, Sections 48 to 51. Experience will demonstrate what additional legislation is required along these lines.

### **Oil and Gas Legislation**

While the legislation relating to the issuance of oil and gas leases on State lands is not a part of Chapter 60, being embodied in Chapter

108, it is nevertheless important legislation relating to State lands and it seems proper to make brief reference to it at this point in the report. Prior to this legislation, there was practically no State legislation on the subject; probably the only direct reference to this subject was found in Section 1882 of the 1921 Code.

The new legislation covers the subject quite fully so that both the officers of the State and the lessees of such lands may feel secure in the leasing of such lands. Careful study of this legislation will show that it fully protects the interests of the State in full harmony with the letter and spirit of our constitution; and experience has abundantly demonstrated that oil operators find it acceptable and workable. During the last fiscal year the rentals collected on oil and gas leases exceeded \$92,000.00, and the royalties exceeded \$155,000.00. As the oil and gas industry may still be in its infancy in this state, it is evident that legislation on this subject is of far-reaching importance.

### **The Statutes Simplified and Clarified**

The new legislation simplifies and clarifies former statutes in numerous cases, and as it was written from actual experience in the administration of the office, it fits well into the various problems, small and great, that must be dealt with nearly every day in the year. It can be said without reservation that it works well.

### **Investments**

If we endeavor to look a little into the future of the problems of the State Land Department, we shall soon discover that its problems will eventually resolve themselves into the one great problem of making safe long-time investments. The lands granted are gradually being sold and converted into money; the time will ultimately come when the State shall have no lands to lease or sell but will have huge sums of money for investment.

The new legislation recognizes this fact by incorporating the word "investments" in its name and also through specific provisions relating to investments. The State Board of Land Commissioners is, among other things, granted the power to make investments in county warrants and school district warrants.

A separate measure, embodied in Chapter 15, gives to this board a preference right in the purchase of State general fund warrants. On account of the excellent credit now enjoyed by the State, it has become increasingly difficult to secure these warrants for investments and it has been next to impossible to secure suitable temporary investment for the public school income fund and other temporary funds under the administration of the board. The preference right given to the State to purchase its own warrants largely solves this problem. All State general fund warrants now being issued, for the payment of which there is no money immediately available, are purchased by the State Board of Land Commissioners through this department unless it waives this right in

favor of the investment of some other State fund not under its control. These warrants furnish an ideal short-term investment, and this preference right has materially strengthened this department as an investment agency.

### **School District Bonds**

As the State now purchases nearly all the school district bonds being issued in the state through this department, any legislation relating to the issuance and payment of such bonds is of direct interest. Before the last session of the State Legislature, the statutes on this subject had become so complicated through amendments and amendments to the amendments that it caused a great deal of unnecessary trouble to school districts issuing bonds.

With the approval and encouragement of the Governor, this department prepared a proposed bill revising nearly all the statutes on this subject. Attorney General L. A. Foot and Miss May Trumper, Superintendent of Public Instruction, helped in its preparation; and the legislature considered it carefully, made necessary amendments, and enacted it into law as Chapter 147 of the 1927 Session Laws.

This legislation grants to school districts the unquestionable power to issue bonds up to the constitutional limit of 3% of the value of the taxable property within the district, and prescribes in a simple and orderly manner the proceedings required for the issuance of the various kinds of school district bonds. The legislation has proved exceedingly helpful to the numerous school districts that have issued bonds since it went into effect, and it is also helpful to this department as it requires less correspondence and explanations than the former complicated statutes.

### **Federal Legislation**

As already mentioned, the mineral lands were exempted from the grants made to the State, and as no definition was contained in the Enabling Act as to the meaning of mineral lands, this has caused a great deal of uncertainty as to the title to State lands in which minerals have been discovered. In other states of the Northwest considerable litigation has developed in the federal courts as to the ownership of mineral lands thought to have been granted to the states. A constant agitation has been carried on by representatives in Congress from the Western states endeavoring to clear up the title to such lands. This culminated in the enactment of Senate Bill 564 signed by the President on January 25, 1927. This bill is deemed of such far-reaching importance to the State that it is printed in full in the latter part of this report, followed by an extensive discussion.

### **SPECIAL ACTIVITIES WITHIN THE DEPARTMENT**

Under the provisions of the Enabling Act nearly one-sixteenth of all the lands within the boundaries of the State was granted for the

maintenance of the public schools and for the benefit of various State institutions. The administration of these lands and the investment of the funds realized from those sold involve such a large and constant volume of business that it is more than sufficient to occupy all the time and energy of the clerks and employees of the department and of those who endeavor to direct their activities. We have realized all throughout, however, that it is not sufficient to transact the routine business alone, however necessary and voluminous, but that time and attention had to be given to the larger problems of the department. The work in connection with the new legislation just described has required a great deal of time and painstaking study. There are also special problems and activities within the department itself that have received a great deal of attention. Some of the more important ones are as follows:

### Lieu Land Selections

While Sections 16 and 36 of every township were granted for the maintenance of the public schools, a considerable proportion of these sections was lost to the State on account of Indian reservations, federal forest reservations, through settlement and otherwise; more than one and one-half million acres of these sections were lost to the State in this manner, and the laborious task devolved upon the State of selecting other lands known as lieu lands in place of those so lost. Selections have been carried on almost continuously from the beginning of the Land Office, and this work is badly complicated from the fact that it usually takes the federal government several years to examine and approve the new selections.

During the spring of 1926 a systematic search was made of the records of the office to ascertain what lands had been lost to the State in this manner for which no other lands had been selected. As a result of this search the State was enabled to select more than one hundred thousand acres of additional lands. State Land Agent L. E. Choquette designated H. C. Biering and W. C. Pilgeram to make the selections.

At the same time the Carey Act Land Board relinquished its right to more than 17,000 acres of land formerly held by it in Townships 26 and 27 North of Range 1 East and of Ranges 1, 2, and 3 West, Pondera and Teton Counties, and these lands were all selected.

Senator Walsh introduced a bill in the United States Senate giving the State a preference right in selecting these lands, and this bill was enacted into law early in 1927.

The total selections made during the period are as follows:

Selections made mainly in Beaverhead and

Madison counties.....	90,762.34 acres
Relinquished Carey Act lands selected.....	17,725.13 acres

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Total selections.....108,487.47 acres

Of these selections a total of 62,715.11 acres have been approved, but no clear lists have as yet been received. With few exceptions the remaining selections are in the process of approval by the federal government. These selections do not include forest lands selected by the State Forester.

The relinquished Carey Act lands are especially valuable, and all the lands selected will undoubtedly some day reach an average value of not less than \$10.00 per acre. This means that the value of these selections to the State will eventually exceed one million dollars.

The highly efficient and faithful work performed in making these selections will be of lasting value to the State.

### Records and Forms

The new state legislation made it necessary to provide numerous new books and records in order to comply with its provisions; amended forms have been provided for agricultural and grazing leases, coal mining leases and oil and gas leases. New forms have been drawn up for mineral prospecting permits, for sales contracts, including new forms for contracts for the sale of mortgage lands, and numerous others. In fact, nearly all the forms of the department have been revised and improved.

We have also undertaken the comprehensive task of making an itemized record of every bond held by the State Treasurer as an investment belonging to the funds under the control of this department. When this record is completed, it will at all times show the unpaid balance on every security and all other essential facts relating thereto.

Another work of considerable scope and importance has been completed by the compilation and binding of all the clear lists or patents received by the State from the Federal Government embracing the lands granted to the various State institutions and the lieu lands selected in place of losses sustained to Sections 16 and 36. The lands granted to the various State institutions and for public buildings at the State Capital embrace just about two-thirds of one million acres. These lands were granted in quantity and the lands were selected by the State subject to the direction and approval of the Secretary of the Interior.

When these selections were approved, the Government issued what is known as clear lists or patents to the State. The earliest clear list embraces the 72 sections granted to the State University and was issued by the Commissioner of the General Land Office while Montana was still a territory, namely, on April 8, 1889, and is signed by Benjamin Harrison as President of the United States.

As the years went by and new selections were made by the State of Montana and these selections were finally approved by the General Land Office, additional clear lists or patents were issued. By the time that the present Commissioner took charge of the State Land Office the collection of these clear lists had become very voluminous, and some of



them had become somewhat dilapidated through the wear and tear of years of usage.

The problem presented itself of transforming these numerous lists into permanent, easily-available records. The trouble in arranging and binding the lists arose from the fact that they are not all of the same size, and also from the circumstance that a great number of the lists were written so close to the margin that binding them in book form would cover part of the writing. The binding has now been completed and includes eight volumes embracing more than 2 184,000 acres of land. It is evident that the preservation of these clear lists in easily available form is of permanent value to the office.

### **Title Abstracts or Status Records**

Based on these clear lists and the other records of the department and information available from other sources, we have planned a complete abstract or status record of every forty-acre tract granted to the State. The Twentieth Legislative Assembly was asked to make a special appropriation of \$2,500.00 for carrying on this work, and this appropriation became available July 1st, 1928. One of the objects of this record is to show every parcel of land lost to the State, however small, and what lieu land has been selected in its place.

The time has come when it is absolutely necessary to have detailed and complete information on this point so that lieu lands may be selected while somewhat valuable lands are still available within the state. The record will also show the exact status of the title, including any reservations made by the federal government, and the disposition made of the land by the State and other transactions affecting the title. It will take years to complete this comprehensive work.

### **Bonding Service**

The bonding service of this department is probably more developed at the present time than at any previous period in its history. Subsequent tables will show the vast investments being made from year to year. We are keeping in touch with the bonding proceedings of school districts, towns, cities and counties throughout the state, and we believe that in numerous cases we have been able to give valuable and helpful information. Complete forms have been worked out and approved by the Attorney General for school district bonding proceedings.

This bonding service is helpful to the people in the state in various ways; the information and advice that we are able to give and the forms that we provide greatly facilitate the proceedings; the active competition of this department for the purchase of nearly all the bonds issued throughout the state results in a reasonable rate of interest; and the amortization repayment plan embodied in the bonds purchased by the State is of almost inestimable value. There is a note following the table of investments for the last fiscal year further explaining this subject.

The amortization bond is probably one of the strongest factors in the public finance of the State of Montana in reducing the debt of its school districts, towns, cities and counties.

TABLE No. I.  
INCOME FROM ALL SOURCES DURING FISCAL YEAR ENDING JUNE 30, 1927

Institutions and Funds to Which the Income Belongs	Rentals on Agricultural and Grazing Leases	Grazing Fees Collected by State Forester	Rentals on Oil and Gas Leases	Interest on Land Sales (C. P.'s)	Interest on Farm Mortgages	Interest on Bonds	Interest on Warrants	Interest on Bank Deposits	Fees and Penalties	TOTALS
State General Fund										
Public Schools.....	\$340,059.71	\$ 2,051.73	\$38,160.00	\$245,049.61	\$178,083.80	\$285,055.14	\$63,282.73	\$31,194.54	\$14,874.70 (Refunds)	\$ 14,874.70 1,180,873.23
State University.....	1,634.60	64.00		5,288.33		22,521.14				29,508.07
Agri. Col.—Morrill Grant.....	7,038.79	15.00		4,448.35		6,421.63				17,923.77
Agri. Col.—Second Grant.....	696.90	731.12		3,134.66		22,577.71				27,190.39
School of Mines.....	5,875.69	91.50		8,371.51		26,326.78			1,436.71 (Refunds)	39,228.77
State Normal Schools.....	4,612.37	143.98		1,708.49		24,833.90				31,298.74
Deaf and Dumb Asylum.....	2,856.69	27.15		1,508.48		8,147.44			75.44 (Refunds)	12,539.76
State Reform School.....	2,946.61	17.35		2,526.24		5,510.16				10,924.92
Capitol Buildings.....	5,700.65	26,315.18	100.00	6,352.02						38,467.85
Soldiers' Home.....	166.70			113.75		658.55				939.00
T. B. and O. H. ....	100.00									100.00
TOTALS.....	\$371,688.71	\$29,457.01	\$38,260.00	\$278,551.44	\$178,083.80	\$402,052.45	\$63,282.73	\$31,194.54	\$14,874.70 \$3,576.18	\$1,403,869.20

This represents all the income, and nothing but the actual income, from the Federal Land Grants, and from the permanent funds arising mainly from the sale of portions of these grants, received during the fiscal year ending June 30th, 1928. Every dollar of this income is used for the maintenance of the public schools and the various state institutions to which it belongs, with the exception that 5% of the total income for the public schools is annually added to the permanent fund itself and becomes an inseparable and inviolable part thereof, under the provisions of Section 5 of Article XI of the Constitution.

The fees for grazing permits on timber lands are collected by the State Forester and by him paid over to the State Treasurer. The interest on bonds, warrants and bank deposits is paid directly to the State Treasurer; the other income is collected by this department.

TABLE No. II.

## RECEIPTS FOR PERMANENT FUNDS FROM ALL SOURCES DURING FISCAL YEAR ENDING JUNE 30, 1927

Institutions and Funds to Which the Receipts Belong	Land Sales First Payments	Installments on Land Sales (C. P.'s)	Timber Sales by State Forester	Oil and Gas Royalties	Coal, Sand and Gravel Royalties, Etc.	Total of These Initial Payments	Repayments on Mortgages	Repayments on Bonds	Repayments of Warrants	GRAND TOTALS
Public Schools	\$68,846.96	\$205,530.16	\$27,428.29	\$313,997.30	\$1,334.51	\$617,137.22	\$56,760.11	\$569,731.89	\$1,277,333.95	\$2,542,430.61
State University		3,430.06				3,430.06		46,408.65	21,467.44*	51,838.71
Agri. Col.—Morrill Grant		3,270.40	7,542.24			10,812.64		13,070.88		23,883.52
Agri. Col.—Second Grant		4,666.94	8,536.41			13,203.35		24,918.49		38,121.84
School of Mines		7,847.60	11,143.59			18,991.19		51,847.94		70,839.13
State Normal Schools		3,633.50	13,164.61			16,798.11		60,541.50		77,339.61
Deaf and Dumb Asylum		1,338.53	1,104.15			2,442.68		23,474.71		25,917.39
State Reform School		3,256.94	199.04			3,455.98		17,917.63		21,373.61
Capital Buildings		7,201.54				7,201.54				7,201.54
Soldiers' Home		28.45				28.45		559.55		588.00
TOTALS	\$68,846.96	\$242,204.12	\$69,118.33	\$313,997.30	\$1,334.51	\$695,501.22	\$56,760.11	\$808,471.24	\$1,300,351.77	\$2,861,084.34

It should be clearly understood that no part of the receipts for the permanent funds can be expended for the maintenance of the public schools or state institutions or for any other purpose.

Payments on timber sales and payments on bonds and warrants are made directly to the State Treasurer; the other collections for the permanent funds are made through this department. The total collections for the department during the fiscal year, both of income and receipts for the permanent funds, exceeded four million dollars.

† 5% net proceeds U. S. land sales in Montana.

\* Hail insurance warrants.

TABLE No. III.  
INVESTMENTS MADE DURING FISCAL YEAR ENDING JUNE 30, 1927

Funds Invested	U. S. Bonds	State Bonds	County, City and Town Bonds	School District Bonds	State General Fund Warrants	TOTALS
Public Schools.....	\$896,800.00*	\$46,395.00	\$189,400.00	\$96,613.23	\$914,450.37	\$2,143,658.60
State University.....	49,600.00†			700.00		49,600.00
School of Mines.....						700.00
State Normal Schools.....			155,000.00			155,000.00
Deaf and Dumb Asylum.....	49,600.00†		7,056.00		7,126.40	63,782.40
Capitol Buildings.....			85,000.00			85,000.00
Soldiers' Home.....				4,100.00		4,100.00
Total Investments of Land Grant Permanent Funds.....	\$896,000.00	\$46,395.00	\$436,456.00	\$101,413.23	\$821,576.77	\$2,501,841.00
Public School Interest and Income.....					367,290.35	367,290.35
Educ. Bonds Interest and Sinking.....					499,647.96	499,647.96
W. W. Dixon Endowment.....				1,500.00		1,500.00
GRAND TOTAL OF ALL INVESTMENTS.....	\$896,000.00	\$46,395.00	\$436,456.00	\$102,913.23	\$1,788,515.08	\$3,370,279.31

\* \$300,000.00 U. S. Treas. 4% Certs. carried at par.....\$300,000.00  
 \$100,000.00 U. S. Treas. 4% Certs. carried at par..... 100,000.00  
 \$100,000.00 U. S. Treas. 4% Certs. carried at par..... 100,000.00  
 \$400,000.00 Fed. Land Bank Bonds purchased at 99.20.. 396,800.00  
\$896,800.00

† \$ 50,000.00 Federal Land Bank Bond purchased at 99.20.

Some of the funds invested by the State Board of Land Commissioners through this department do not belong to the Federal Land Grant Funds; see the foregoing schedule of "Funds Invested."

See notes for table of Investments Made During Fiscal Year Ending June 30th, 1928.

TABLE No. IV.  
PERMANENT ASSETS JUNE 30, 1927

Institutions and Funds to Which The Assets Belong	Value of Unsold Lands at \$10.00 per Acre	Deferred Payments on Land Sales (C. P.'s)	SECURITIES					Cash With State Treasurer	TOTALS
			Farm Mortgage Loans	U. S. and Fed. Land Bank Bonds	Other Bonds	State General Fund Warrants	County Warrants		
Public Schools	\$42,306,899.20	\$5,926,831.18	\$4,529,084.23	\$2,386,800.00	\$3,304,334.76	\$930,753.95	\$6,908.42	722,496.60	\$60,104,108.34
State University	165,989.80	93,389.21	.....	49,600.00	366,133.74	.....	.....	44,678.02	723,790.77
Agri. Col. Morrill Grant	606,965.00	99,290.42	.....	25,000.00	384,626.46	.....	.....	62,492.44	1,177,984.32
Agri. Col. Second Grant	386,594.00	36,280.21	.....	.....	36,075.54	.....	.....	84,084.33	603,034.08
School of Mines	532,880.50	131,249.50	.....	25,000.00	437,391.37	.....	.....	93,576.41	1,280,100.78
State Normal Schools	694,941.00	35,913.75	.....	.....	629,655.21	.....	.....	46,233.26	1,306,713.22
Deaf and Dumb Asylum	356,872.60	37,114.78	.....	49,600.00	298,812.81	7,056.00	.....	5,291.21	664,717.43
State Reform School	362,067.00	42,118.33	.....	.....	74,351.57	.....	.....	15,281.11	493,623.91
Capitol Buildings	1,235,090.10	126,376.90	.....	.....	.....	.....	.....	19,501.55	1,380,968.55
Soldiers' Home	10,567.70	2,246.55	.....	.....	4,640.45	.....	.....	686.07	18,140.77
TOTALS	\$46,812,466.90	\$6,530,810.83	\$4,529,084.23	\$2,536,000.00	\$5,306,037.94	\$937,809.95	\$6,908.42	\$1,094,123.90	\$67,753,242.17

See notes for table of Permanent Assets June 30th, 1928.

TABLE No. V.  
INCOME FROM ALL SOURCES DURING FISCAL YEAR ENDING JUNE 30, 1928

Institutions and Funds to Which the Income Belongs	Rentals on Agricultural and Grazing Leases	Grazing Fees Collected by State Forester	Rentals on Oil and Gas Leases	Interest on Land Sales (C. P. s)	Interest on Farm Mortgages	Interest on Bonds	Interest on Warrants	Interest on Bank Deposits	Fees and Penalties	TOTALS
State General Fund										
Public Schools	\$396,912.86	\$3,908.51	\$91,477.28	\$272,658.20	\$263,436.78	\$302,970.57	\$26,496.36	\$14,854.97	\$12,560.53	\$12,560.53
State University	1,513.80	100.40		4,574.51		24,673.65				1,372,715.53
Agri. Col.—Morrill Grant	7,251.90			4,071.45		7,163.98		11.62		30,862.36
Agri. Col.—Second Grant	335.85			1,188.12		23,394.13				18,498.95
School of Mines	5,236.46	176.20		6,226.09		30,541.02				25,094.30
State Normal Schools	4,023.96	210.58		1,660.26		31,093.47				42,214.15
Deaf and Dumb Asylum	2,752.50	258.25	352.50	1,610.40		9,473.60	391.31			37,388.44
State Reform School	2,417.54	227.90		1,710.96						14,278.91
Capitol Buildings	6,466.26	2,293.88	1,020.00	5,725.25		9,484.45				13,840.85
Soldiers' Home	146.25			112.33		267.79				15,505.39
										526.37
TOTALS	\$427,057.38	\$7,316.82	\$92,849.78	\$299,537.57	\$263,436.78	\$439,062.66	\$26,797.67	\$14,866.59	\$12,560.53	\$1,583,485.78

This represents all the income, and nothing but the actual income from the Federal Land Grants, and from the permanent funds arising mainly from the sale of portions of these grants, received during the fiscal year ending June 30th, 1928. Every dollar of this income is used for the maintenance of the public schools, and the various state institutions to which it belongs, with the exception that 5% of the total income for the public schools is annually added to the permanent fund itself and becomes an inseparable and inviolable part thereof, under the provisions of Section 5 of Article XI of the Constitution.

It will be noted that the total income is substantially in excess of one and one-half million dollars. This is by far the largest income ever received by this department during any fiscal year in its history.

Nearly four-fifths of the entire income belongs to the Public Schools, and amounts to \$1,372,715.53 as above shown. This represents an increase of approximately four hundred thousand dollars above the highest income ever reached during the boom period of the state prior to 1925.

The fees for grazing permits on timber lands are collected by the State Forester and by him paid over to the State Treasurer. The interest on bonds, warrants and bank deposits is paid directly to the State Treasurer; the other income is collected by this department.

See notes "Refundment of Rentals" and "Payment of Accrued Interest" following Table VI.

TABLE No. VI.  
RECEIPTS FOR PERMANENT FUNDS FROM ALL SOURCES DURING FISCAL YEAR ENDING JUNE 30, 1928

Institutions and Funds to Which the Receipts Belong	Land Sales First Payments	Installments on Land Sales (C. P.'s)	Timber Sales by State Forester	Oil and Gas Royalties	Coal, Sand and Gravel Royalties, Etc.	Total of Initial Payments	Repayments on Mortgages	Repayments on Bonds	Repayments of Warrants	GRAND TOTALS
Public Schools	\$50,351.66	\$235,555.95	\$35,626.07	\$155,689.97	\$2,549.45	\$479,773.10	\$107,562.06	\$574,798.43	\$788,934.91	\$2,087,875.53
State University	665.00	7,248.32	64.00			7,977.32		37,953.47	*61,695.53	45,930.79
Aeri. Col. Morrill Grant	1,500.00	3,537.70	7,792.72			12,830.42		16,507.82	†75,000.00	29,338.24
Aeri. Col. Second Grant		1,755.47	5,887.83			7,143.30		16,740.45		23,883.75
Schools of Mines	1,987.80	5,045.33	6,997.31			14,030.44		51,655.81		68,686.25
State Normal Schools	1,550.00	3,342.81	2,543.99			7,436.80		83,351.46		90,788.26
Deaf and Dumb Asylum		2,080.32	2,111.51			1,191.83		20,764.50	7,126.40	22,082.73
State Reform School		2,584.12	3,523.26			6,107.38		16,652.91		22,760.29
Capitol Buildings	1,498.20	7,131.52	21,346.68			30,326.40				30,326.40
Soldiers' Home		29.87				29.87		913.39		943.26
T. B. and O. H.	125.00					125.00				125.00
TOTALS	\$57,677.66	\$267,674.41	\$83,393.37	\$155,689.97	\$2,549.45	\$566,984.86	\$107,562.06	\$822,338.74	\$932,867.81	\$2,429,753.50

\* 5% Total income 1927 calendar year.

† Transfer from Escheated Estates Fund.

‡ Insurance fees collected by Auditor.

It should be clearly understood that no part of the receipts for the permanent funds can be expended for the maintenance of the public schools or state institutions or for any other purpose.

It is the purpose and intent of the Enabling Act in granting the lands to the schools and various state institutions that the proceeds from the sale of lands shall constitute permanent funds of which the income alone can be expended. This purpose of the Enabling Act is fully carried out through the Constitution and statutes of the State. Timber, oil, gas and coal are considered as being part of the land itself and for this reason the proceeds from their sale are added to the permanent funds. The additions from these sources amount to the substantial sum of \$211,632.79 during the fiscal year; \$75,000.00 was transferred from the escheated estates fund; \$111.00 was added from insurance fees collected by the State Auditor, and the 5% of the income for the public schools from the 1927 calendar year added \$61,695.53 more, making the total of all these special additions to the permanent funds more than Three Hundred Seventy-eight Thousand Dollars.

Payments on timber sales and payments on bonds and warrants are made directly to the State Treasurer; the other collections for the permanent funds are made through this department. The total collections for the department during the fiscal year, both of income and receipts for the permanent funds, exceeded Four Million Dollars.

### REFUNDMENT OF RENTALS

When State lands under lease are sold and the rentals have been paid beyond the date on which the purchaser gets possession of the land, which under present statutes is March 1st next succeeding the date of sale, the lessee is entitled to refundment of the rentals paid beyond that time. In certain cases partial refundment of agricultural rentals are made on account of summerfallowing. In the case of oil and gas leases two refundments were made during the last fiscal year as the applications were withdrawn after the payment of the rentals but before the issuance of the leases.

The total refundments during the last fiscal year are as follows:

Fund from which		
Refundment was made	Kind of Lease	Amount
Public School Interest and Income.....	Oil and gas	\$ 800.00
Public School Interest and Income.....	Agri. and grazing	1,836.25
Capitol Building.....	Agri. and grazing	38.72
Total.....		\$2,674.97

Under the provisions of the new legislation relating to the State Land Department already discussed in this report, the rental year terminates February 28th, and the purchaser ordinarily gets possession of the land on March 1st. As the leases issued before this legislation went into effect gradually expire and are replaced with leases issued under the new legislation, there will be fewer and fewer refundments to be made for rentals paid beyond the time that the purchaser takes possession.

### PAYMENT OF ACCRUED INTEREST ON BONDS PURCHASED BY THE STATE

The statutes usually provide that the purchasers of bonds issued by public corporations shall pay or refund the interest accrued on such bonds from their date of issue to the date of delivery or payment by the purchaser; and as it is a rare exception that a bond is executed and presented for payment on or before its date of issue, there is some interest accrued on the great majority of bonds purchased by the State from the school districts, towns, cities and counties of the state. It is only fair that such accrued interest should be repaid to the borrowers; the investor should not receive any interest on his money before the money has been paid over to the borrower. There is no loss involved to the State in the payment of such accrued interest as the first interest coupon covers the total interest accruing on the bond from the date of issue to the date the coupon falls due—both the interest accrued up to the delivery of the bond and the interest thereafter.

The payments made on accrued interest during the last fiscal year, including a few small premiums on bonds purchased, are as follows:



Fund From Which Paid	Amount
Public School Interest and Income.....	\$ 5,384.10
State University Interest and Income.....	1,263.80
Agricultural College Morrill Interest and Income.....	665.52
Agricultural College Second Grant Interest and Income.....	768.86
State School of Mines Interest and Income.....	1,709.18
State Normal School Interest and Income.....	2,014.72
Deaf and Dumb Asylum Interest and Income.....	151.64
Reform School Interest and Income.....	411.94
Total.....	<hr/> \$12,369.76

Of the accrued interest paid on bonds purchased for the public school funds there is one single item that amounts to \$1,555.60, being the interest accrued on one-half million dollars of Federal Land Bank bonds.

TABLE No. VII.  
INVESTMENTS MADE DURING FISCAL YEAR ENDING JUNE 30, 1928

Funds Invested	Federal Land Bank Bonds	State Educ. Bonds	County, City and Town Bonds	School District Bonds	State General Fund Warrants	TOTALS
Public Schools.....	*\$495,000.00		\$ 24,629.00	\$504,768.49	\$1,228,555.72	\$2,252,953.21
State University.....				85,000.00		85,000.00
Agri. Col.—Morrill Grant.....			60,000.00	30,000.00		90,000.00
Agri. Col.—Second Grant.....		45,000.00		58,000.00		103,000.00
School of Mines.....			35,000.00	118,500.00		153,500.00
State Normal Schools.....				131,500.00		131,500.00
Deaf and Dumb Asylum.....		5,500.00		30,500.00		30,500.00
State Reform School.....				29,895.00		35,395.00
Total Investments of Land Grant Permanent Funds.....	\$495,000.00	\$50,500.00	\$119,629.00	\$988,163.49	\$1,228,555.72	\$2,881,848.21
Public School Interest and Income.....					562,930.75	562,930.75
Educational Bonds Interest and Sinking.....					734,685.47	734,685.47
Ryman University Library Fund.....			6,896.12		2,500.00	9,396.12
Ryman Fellowship Endowment Fund.....			9,851.60			9,851.60
Dixon Endowment Fund.....			7,881.28			7,881.28
GRAND TOTAL OF ALL INVESTMENTS.....	\$495,000.00	\$50,500.00	\$144,258.00	\$988,163.49	\$2,528,671.94	\$4,206,593.43

\* Half million Federal Farm Loan Bonds purchased at 99.

It will be noted that the investments made during the year were confined exclusively to bonds and warrants. The main purpose of these investments is to secure revenue for the schools and institutions to which the funds belong; but they are also helpful to the taxpayers of the State in other ways; the active competition of this department for the purchase of practically all the general obligation bonds issued throughout the State insures to the borrowers a reasonable rate of interest.

The State has devised for its borrowers the notable Amortization Bond—undoubtedly the best bond for the borrower known to modern finance. Under this bond the combined semi-annual installment on interest and principal remains the same from beginning to end, and when the last installment is paid, the bond is repaid in full. It saves the taxpayers of the state huge sums in interest every year and vastly increases the safety of the security.

Some of the funds invested by the State Board of Land Commissioners through this department do not belong to the Federal Land Grant Funds; see the foregoing schedule of "Funds Invested."

The total of all investments in warrants and bonds made during the fiscal year exceeds four million two hundred thousand dollars as above shown. The total of all such investments during the last two fiscal years exceeds seven and one-half million. It is claimed without reservation that unless some unforeseen calamity of nature should befall the state, not one single dollar of these millions will be lost.

TABLE No. VIII.  
PERMANENT ASSETS JUNE 30, 1928

Institutions and Funds to Which the Assets Belong	Value of Unsold Lands at \$10 per Acre	Deferred Payments on Land Sales (C. P.'s)	SECURITIES					Cash With State Treasurer	TOTALS
			Farm Mortgage Loans	U. S. Securities and Fed. Land Bank Bonds	State Bonds	County, City, Town and School District Bonds	State General Fund Warrants		
Public Schools	\$42,504,824.20	\$5,634,334.51	\$4,433,894.77	\$2,881,800.00	\$350,507.75	\$3,198,787.02	\$1,068,320.57	\$443,097.21	\$60,515,566.03
State University	167,817.60	87,870.44	.....	49,600.00	80,000.00	333,428.73	.....	5,372.35	724,089.12
Aeri. Col.—Morrill Grant	608,453.60	78,897.02	.....	.....	10,000.00	159,567.72	.....	1,830.68	858,749.02
Aeri. Col.—Second Grant	394,490.40	29,451.97	.....	25,000.00	308,000.00	182,996.01	.....	4,673.92	924,612.30
School of Mines	590,593.90	137,841.49	.....	25,000.00	115,000.00	420,738.56	.....	9,262.65	1,297,936.61
State Normal Schools	691,756.50	41,242.19	.....	.....	50,000.00	528,080.51	.....	5,230.40	1,319,309.60
Deaf and Dumb Asylum	363,272.60	36,071.77	.....	49,600.00	47,000.00	83,604.34	.....	3,573.44	593,422.55
State Reform School	365,192.50	37,646.86	.....	.....	5,400.00	172,596.66	.....	2,349.30	583,380.32
Capital Buildings	1,235,486.60	121,024.38	.....	.....	.....	.....	.....	32,382.19	1,391,887.17
Soldiers' Homes	10,567.70	2,216.68	.....	.....	.....	.....	.....	571.14	17,082.58
T. B. and O. H.	750.00	.....	.....	.....	.....	3,727.06	.....	.....	750.00
TOTALS	\$46,933,199.60	\$6,212,092.31	\$4,433,894.77	\$3,031,000.00	\$965,907.75	\$5,073,526.61	\$1,068,320.57	\$508,843.79	\$68,226,785.40

The State is responsible for the investment and perpetual preservation of these various permanent funds. Section 3 of Article XI of the Constitution provides that the public school fund "shall forever remain inviolate, guaranteed by the State against loss or diversion." Section 12 of the same Article provides that "The funds of the state university and of all other state institutions of learning, from whatever source accruing, shall forever remain inviolate and sacred to the purpose for which they were dedicated . . . and shall be guaranteed by the state against loss or diversion."

It will be noted that the total assets, including the unsold lands figured at the minimum sales price of \$10.00 per acre, exceed the huge sum of **Sixty-eight Million Dollars**, the exact amount being \$68,226,785.40. This represents an increase of more than \$865,000.00 since June 30th, 1926.

## OBSERVATIONS CONCERNING THESE ASSETS

## Unsold Lands

It will be noted that approximately 69% of the total assets consists in unsold lands figured at the minimum sales price of \$10.00 per acre. Undoubtedly there are some of these lands located in the mountainous regions, and some of the inferior grazing lands, that may never bring \$10.00 per acre; but it is thought that this will be more than offset by the prices realized from the more valuable lands. Timber, coal, oil, gas and other minerals are regarded as being part of the land itself and all proceeds from the disposition of these elements of the land are added to the permanent funds. Considering these factors, it is reasonable to assume that the State will ultimately realize more than an average of \$10.00 per acre for all its unsold lands. The average sales price of all State lands so far sold is between fifteen and sixteen dollars per acre. See Table of Lands Unsold in Each Grant June 30, 1928, for detailed statement of unsold lands.

## Deferred Payments on Land Sales

On June 30, 1926, this class of assets was carried at the figure of \$7,014,475.57; on June 30, 1928, it was carried at the figure of \$6,212,092.31 as shown by Table VIII. This decrease is caused by the cancellation of a great number of delinquent certificates of purchase or sales contracts. On page 17 of the report of this department for the two-year period terminating June 30, 1926, attention is called to the fact that 1281 certificates of purchase had been cancelled during that two-year period and the statement is made that hundreds of additional certificates must be cancelled during the coming fiscal year. Since that time the State Board of Land Commissioners has approved the cancellation of certificates of purchase as follows:

	No. of Certificates	Acres	Unpaid Bal- ances on These Certs.
May 7, 1927, Page 527 and 528 of the Proceedings.....	329	63,091.78	\$ 874,041.09
August 2, 1928, Page 625 of the Proceedings.....	164	35,548.11	436,539.74
Totals.....	493	98,639.89	\$1,310,580.83

These cancellations result from the fact that during the boom period of the state large quantities of State lands were sold at the inflated prices then prevailing, and experience has convinced hundreds of the purchasers that the prices agreed to be paid were above the actual value of the lands. For this reason they have allowed the lands to revert to the State and contented themselves with the use of the lands during the time they had possession as compensation for the investments made.

As the lands under the cancelled certificates revert to the State and all payments made thereon are forfeited to the State, these cancellations

do in reality not result in actual losses to the State.

These cancellations have involved a great deal of work for the department, but it was work urgently necessary as the proper administration of these lands does not permit their use and possession without a reasonable compliance with the terms of the sales contracts.

Some additional cancellations will be necessary. The decrease in these assets has been offset to a considerable extent by some re-instate-ments of cancelled certificates and by the large land sales that have taken place during the two fiscal years covered by this report.

### Farm Mortgage Loans

This class of investment is carefully analyzed in Table IX and discussed in detail in the notes following the table.

### Bonds and Warrants

These assets amount to the very substantial sum of \$10,138,754.93 made up of U. S. securities, State bonds, county, city and town bonds and of State General Fund warrants as shown in detail by the table. All of these securities are good securities; with the exception of a few small school district bonds, they are not even delinquent in the payment of interest. There are no drainage district bonds or special improvement district bonds or any securities of that nature. It is greatly to the credit of the State Board of Land Commissioners and the other officers of the department that no bad bond investments whatever have been made. As shown by Table No. V the total interest collected on bonds and warrants during the last fiscal year amounted to \$465,860.33, which when figured on the basis of the total investments on that date gives a rate of nearly four and six-tenths per cent (4.6%).

### Elements of Perpetual Growth

Probably the most encouraging circumstance in connection with these funds is that they do not only remain permanent but that they are subject to perpetual growth. Additions are constantly made to these funds not only from the sale of the lands themselves but from other sources. The additions made to the Public School Permanent Fund from other sources than land sales during the last fiscal year are as follows, as shown by Table No. VI:

Timber Sales.....	\$ 35,626.07
Oil and Gas Royalties.....	155,689.97
Coal, Sand and Gravel Royalties.....	2,549.45
5% of Total Income During 1927 Calendar Year.....	61,695.53
Insurance Fees Collected by State Auditor.....	111.00
Amount Transferred from Escheated Estates Fund.....	75,000.00
Total.....	<hr/> \$330,672.02

Some of these sources of income may endure almost forever. Under the State's present forest policy, the forests are not destroyed but only the mature timber is cut, leaving the younger timber to grow into another forest crop. The oil and gas resources of the state may eventually become exhausted, but the coal deposits on State lands are so extensive that they will undoubtedly last for centuries. The 5% addition from the total annual income will evidently remain as long as the constitution remains unchanged on this point and as long as any income is realized.

A little further information in regard to this source of income may not be out of place. During the session of the State Legislature in 1919 the present Commissioner of State Lands and Investments wrote and introduced a proposed amendment to Section 5 of Article XI of the State Constitution. Briefly stated, this amendment provides that 95% of all income from the public school funds shall annually be apportioned to the school districts of the state and that the remaining 5% of all such income shall annually be added to the permanent fund itself and become an inseparable and inviolable part thereof. This proposed amendment was passed by the legislature, approved by the vote of the people at the election in November 1920, and became effective as a part of the Constitution under the Governor's proclamation of December 6, 1920.

Under this amendment to the Constitution the total income for the public school funds accrues to the benefit of the schools either by apportionment to the school districts or by addition to the fund itself; no portion of the income can be used for any other purpose whatsoever. The additions made from this source from the time the amendment went into effect and up to the present time are as follows:

March 1921 .....	\$ 7,442.22
March 1922 .....	41,253.83
March 1923 .....	49,314.52
March 1924 .....	46,967.18
March 1925 .....	43,063.93
March 1926 .....	53,275.11
Feb. 1927 .....	68,259.05
Feb. 1928 .....	61,695.53
Total.....	<hr/> \$371,271.37

The addition made in 1927 was the highest for the reason that approximately \$244,000.00 derived from the Metals Mines Tax and from the crude oil tax was made part of the income for the schools during that year; under legislation subsequently enacted the income from these sources is not made a part of the general income for the schools but is used as an equalization fund for the benefit of the weaker school districts throughout the state.

#### Escheated Estates

#### \$75,000.00 Transferred to Permanent School Fund

Section 2 of Article XI of the Constitution of the State enumerates

the various items that shall make up the public school fund, and among these items we find "all estates, or distributive shares of estates that may escheat to the State." This provision in the Constitution shows that its framers deemed escheated estates a proper and important source for increasing the public school funds. Special mention of the subject is made in this report for the purpose of calling it to the attention of State officials and public-spirited citizens who are interested in increasing our public school funds.

On January 10, 1928, Governor J. E. Erickson suggested to the State Board of Land Commissioners that this office should gather information in regard to the escheated estates fund in the State Treasury for the guidance of the board in making transfers from this fund to the public school permanent fund. Under date of February 27th this office submitted to the board a comprehensive report on the subject. Part of this report reads as follows:

"The practice of escheat is of ancient standing; I have not taken the time to trace it back to its beginnings but I find that when Emperor Justinian early in the sixth century appointed his commission of ten learned men to draw up a civil code for the empire, which resulted in the *Corpus Juris Civilis*, the subject of escheats was fully covered. Under this code an escheator was appointed whose duty it should be to assert the right of the Emperor to estates or inheritances for which there were no heirs.

"Under the system of feudalism lands so situated did, of course, not escheat to the state, but escheated to the feudal lord as he was considered as the grantor of the title and therefore the title would naturally revert to him in the case of failure of heirs.

"Under early English law there were two causes for escheat, namely, the failure of descendants or heirs and the commission of crime on the part of the owner himself. In a case of this kind the reverting or escheat of the property was not regarded exactly as a punishment for the crime committed or supposed to have been committed, but the crime was regarded as attainting the heirs in such a manner that they would be disqualified from taking, holding and enjoying the land. Under the laws of England of the present day, however, escheat can only arise from the actual failure of heirs.

"In early times the escheat of property seemed to apply principally to lands, probably for the reason that in those days the varieties of personal property were few and their quantity relatively small as compared with land. They were not limited entirely to lands, however. If buried treasures were discovered in England, such 'treasure-trove' would belong to the Crown or the King; this is the law to the present day. If trees blew down, these would also 'escheat' to the crown.

"The institution of escheat is based on the fundamental theory of property. The holding and enjoying of property is not an inherent or natural right but a right which in civilized society is granted by the

government to the individual. The ultimate title to property rests not in the individual but in society itself. It follows therefore that when the line of succession is broken by the lack of heirs, the ownership of the property will necessary revert to society as a whole or rather to that organization of society we call government. Bouvier's law dictionary quotes with approval a statement to the effect that 'this seems to be the universal rule of civilized society.'"

This report shows among other things that the fund in the State Treasury was made up of a great number of separate escheats, some of them as small as 80 cents; that no transfers had been made from this fund to the public school fund since 1904; that the total amount in the treasury on January 1, 1928, was \$116,311.23, and that the total amount refunded to heirs since 1904 was only \$5,096.04. Generally speaking, the heirs have twenty years from the date that the estate was adjudged to have escheated to the State in which to prove their claims.

Based on the information submitted in this report, the State Board of Land Commissioners and the State Board of Examiners executed a joint order on June 7, 1928, transferring the sum of \$75,000.00 from the escheated estates fund to the public school permanent fund. The transfer was made "subject to the right of any party to establish his claim for the refundment of any of the money so transferred in the manner provided by law."

### **The Permanent School Funds, Like a Magnificent Tree, Living Through the Ages**

It is told of Buddah, "the Light of Asia," that after years of contemplation he received his great spiritual enlightenment under a certain tree known to history as the Bo Tree. Faithful disciples of the great teacher planted cuttings of this tree in various places and countries. It is told as a historical fact that one of these cuttings was planted on the Island of Ceylon in the year 245 B. C. From that time and down to the present it has been carefully tended and watered; its far-spreading branches are supported by pillars and the earth has been carefully terraced about it so that it has continuously been able to put out fresh roots. It is probably the oldest historical tree in the world.

In Norse mythology we are told of the magnificent tree called Yggdrasill, represented as the noblest of all trees; its crown reached towards the heavens, its branches spread far and wide, and one of its three great roots was watered from Mimirs Well—the well of wisdom. The gods held their daily council under its shade and shelter. When the Founders of this Republic provided for perpetual funds for the support and maintenance of our public schools, they planted a noble tree that has struck deep roots in the soil of our state. If our people will continue to protect its deep roots, support its far-spreading branches and water it from the well of wisdom, it is likely that it will continue to grow through coming ages and bring manifold blessings. Birds from other climes shall sing in its foliage and bring the tidings of eternal spring.



TABLE No. IX.  
CONDITION OF STATE FARM LOANS JUNE 30, 1928

Classification of Loans as to Present Condition	Number of Loans	Acres	Unpaid Principal	Taxes Paid by State	Other Expenses Paid by State	TOTAL
Loans in Their Original Form Not Delinquent One Year or More	335	111,451.06	\$ 546,618.60	\$ 2,781.72	\$ 18.35	\$549,418.67
Loans in Their Original Form Delinquent One Year or More	280	85,002.01	495,600.40	100,434.69	632.20	597,167.29
Loans Converted to Amortization Mortgages Not Delinquent One Year or More	102	36,278.13	193,363.00	27.58		193,390.58
Loans Converted to Amortization Mortgages Delinquent One Year or More	47	14,085.14	121,804.09	673.04		122,477.13
Sales Contracts: (Mortgages under which the land has been decded to the State or acquired by foreclosure and then resold under the 33 year amortization plan.)						
Mortgages under which the State has acquired title to the land thru Quit Claim Deed and the lands have not been resold	765	261,575.38	1,589,954.31	169,848.72	3,598.91	1,763,401.94
Mortgages under which the State has acquired title to the land Thru Foreclosure proceedings and the lands have not been resold	382	135,901.63	790,786.40	104,680.39	649.01	896,115.80
	142	43,466.00	258,355.00	48,430.32	5,138.04	311,923.36
TOTALS	2054	687,759.35	\$3,996,481.80	\$427,376.46	\$10,036.51	\$4,433,894.77

Taxes and Costs Paid by the State in Connection With Its Mortgage Loans

Total Investment in Farm Loans at the Close of Each Fiscal Year

Up to June 30, 1922	\$ 45,297.66	June 30, 1924	\$4,551,655.03
Year ending June 30, 1923	75,630.72	June 30, 1925	4,595,261.19
Year ending June 30, 1924	169,566.59	June 30, 1926	4,549,039.77
Year ending June 30, 1925	137,633.90	June 30, 1927	4,529,084.23
Year ending June 30, 1926	45,477.63	June 30, 1928	4,433,894.77
From June 30, 1926, to June 30, 1928	49,177.17		

Total \$523,083.67

(See next page for further information in regard to these loans.)

Loans Repaid in Full

309 Loans embracing 96,937.05 acres and amounting to \$555,680 have been repaid in full from the beginning of the State mortgage loan business to June 30, 1928. The foregoing classification has been worked out jointly by John C. Lyndes, Special Assist. Atty. General, in charge of State mortgage foreclosure and title work, and this department. It is a careful and painstaking classification which throws a great deal of light on the actual condition of State farm mortgage loans.

## OBSERVATIONS ON THE CONDITION OF THE STATE FARM LOANS

The foregoing table shows that only 336 of the farm loans now in effect remaining in their original form and amounting to a little less than \$550,000.00 are in good standing. It also shows that the State has acquired title through mortgage foreclosure or quit claim deeds to the lands under 1289 mortgages, representing a total investment on June 30, 1928, of more than \$2,971,000.00. Of the lands to which title has been so secured, the lands under 765 loans have been resold to the mortgagors or others, representing a total investment of more than \$1,763,000.00. The actual sales price materially exceeds the investment for the reason that the accrued interest on the loans is included in the sales price. The figures given in the preceding table as the State's investment in the various classes of loans does not include the accrued interest but only the State's actual investment including taxes and other costs paid by the State. None of these lands has been sold for less than the full investment of the State and the accrued interest.

Under the statutes the purchasers are only required to pay 10% of the purchase price at the time of sale, and in the great majority of cases the cash payments have not materially exceeded this requirement. This being the case, it is practically certain that some purchasers will default on their contracts and the lands will again revert to the State.

The remaining lands to which the State has secured title, representing 524 loans, amounting to more than \$1,200,000.00, have not been resold for lack of purchasers.

Up to and including the fiscal year ending June 30, 1925, the amount invested in farm loans continued to increase. Since that time not a single farm loan has been made, and every reasonable effort has been made to reduce the amount invested, but the reduction has been very slow as will be shown by the figures following the table.

The interest collections on these loans have been quite good during the last two fiscal years, amounting to \$178,083.80 for the fiscal year ending June 30, 1927, and to \$263,436.78 for the fiscal year ending June 30, 1928. When the State has acquired title to any of these lands and the same are not resold, the lands are leased out whenever possible, usually on a crop-share basis; and the State's rentals, whether share rentals or others, are then regarded as interest on the investment as long as any accrued interest on the original loan or other interest remains unpaid. These rentals represent a very considerable share of the interest collections. It is evident that if unfavorable crop seasons should come, the income from this source would be greatly reduced.

State Land Agent L. E. Choquette has had charge of the leasing of the State mortgage lands; he has also done a great deal of work in finding purchasers and has been highly successful in both these endeavors.

### General Plan of Handling Delinquent Loans

Under the provisions of the 1925 Session Laws as amended by Chapter 60 of the 1927 Session Laws, delinquent farm loans are placed under the office of the Attorney General for securing title through foreclosure or otherwise. Mr. John C. Lyndes, Special Assistant Attorney General, has had charge of this work and has given it constant attention. The plan followed with all badly delinquent loans has been to secure title to the property by quit claim deed whenever possible and practicable, and if not, then through foreclosure proceedings. Encouragement is always given to the mortgagor to repurchase the property within the redemption period under the easy payment plan provided by our statutes. The purchaser is required to pay in cash at least 10% of the total investment including accrued interest and all costs; and the balance draws interest at the rate of 5% per annum and is payable on the amortization plan through a period of 33 years.

Up to June 30, 1926, 392 purchase contracts of this kind had been issued; from June 30, 1926, to June 30, 1928, 373 additional contracts were issued bringing the total of these contracts up to 765, as shown in the preceding table.

The work of securing title through the Attorney General and the work of reselling the lands is in constant progress.

Section 74 of Chapter 60 of the 1927 Session Laws provides that whenever a sale of State lands is held in any county, all the mortgage lands owned by the State in such county to which the State has secured title shall be offered for sale. Section 77 of the same chapter provides that mortgage lands may also be advertised and sold at other than the regular sales of State lands held at the county seats, whenever the State Board of Land Commissioners so orders. These special sales of mortgage lands are held at the office of the Commissioner of State Lands and Investments and are conducted by means of sealed bids after the lands to be sold have been advertised for three successive weeks.

We know of no better plan to follow in dealing with the difficult problem arising from the State farm loans than the one here described. Briefly summarized this plan is to secure title to the lands under the delinquent loans as rapidly as possible through quit claim deeds or through foreclosure proceedings; next to resell the lands to the original mortgagor or others on the amortization plan.

It must be admitted, however, that these investments do not constitute a satisfactory investment for the public school funds of the State. Reference is made to this fact later on in this report under the heading "New Legislation Needed."

A close estimate, based on calculations, places the total amount of delinquent interest on the farm loans on June 30th, 1928, at about \$950,000.00.

TABLE No. X.  
LANDS UNSOLD IN EACH GRANT JUNE 30, 1928

COUNTY	Public School		State University		Agri. Morrill Grant (90,000 Acres)		Agri. College Second Grant (50,000 Acres)		School of Mines		State Normal School		Deaf & Dumb Asylum		State Reform School		Public Building		TOTALS	
	Acres	Acres	Acres	Acres	Acres	Acres	Acres	Acres	Acres	Acres	Acres	Acres	Acres	Acres	Acres	Acres	Acres	Acres	Acres	Acres
1. Beaverhead.....	175,430.38				10,360.31				7,169.08	16,825.39		6,240.00		5,800.00		10,853.05		232,678.21		
2. Big Horn.....	86,986.72																	86,986.72		
3. Blaine.....	166,121.36				640.00				1,000.49	1,031.47				40.00				168,833.32		
4. Broadwater.....	18,557.84	320.00															8,500.12	27,377.96		
5. Carbon.....	37,093.86				3,573.57													43,915.74		
6. Carter.....	183,909.84								225.37	27.75					3,248.81			139,747.02		
7. Cascade.....	88,592.99				760.00				4,600.53	482.36					141.06			77,163.59		
8. Chouteau.....	213,705.55	214.29			9,675.22				13,860.84	10,652.21					2,113.42			250,955.33		
9. Custer.....	124,850.43	480.00													895.59			125,330.43		
10. Daniels.....	175,267.12																	175,267.12		
11. Dawson.....	71,077.39																480.00	71,557.39		
12. Deer Lodge.....	8,404.27																	8,404.27		
13. Fallon.....	51,709.84																	51,709.84		
14. Fergus.....	137,223.67		1,760.00															138,983.67		
15. Flathead.....	72,766.69				3,428.05				9,663.32	9,793.90		5,381.67		2,577.31			20,237.68	136,885.15		
16. Gallatin.....	26,753.94		1,433.24						2,748.93	1,540.12		2,574.86			642.82			42,613.63		
17. Garfield.....	189,943.05																	159,943.05		
18. Glacier.....	15,200.70																299.46	15,500.16		
19. Golden Valley.....	42,371.84		3,371.61															46,743.45		
20. Granite.....	19,635.48																	19,635.48		
21. Hill.....	127,287.88																	127,287.88		
22. Jefferson.....	24,409.86	360.00								557.97								25,229.83		
23. Judith Basin.....	69,248.77				3,190.94										40.00			71,917.90		
24. Lake.....	65,724.26	320.84			560.00				2,029.13	80.00								69,820.81		
25. Lewis and Clark.....	95,774.62	320.00			320.00				1,220.20	1,000.07		1,078.09					157.35	98,551.12		
26. Liberty.....	33,408.12				7,217.81				3,640.00	1,366.01		2,280.00			1,000.00			43,033.76		
27. Lincoln.....	49,022.36																	49,022.36		
28. McCone.....	89,145.70																	89,145.70		
29. Madison.....	80,800.44	320.00			960.00				3,751.04	15,983.07		3,191.65			3,689.90			99,948.09		
																		131,462.67		

30.	Mearher	55,714.65	14,562.93	2,460.12	4,141.41	7,252.95	7,709.32	8,977.65	85,239.85
31.	Minral	6,706.52	2,137.15	6,025.78	315.49	...	...	...	21,385.70
32.	Missoula	35,539.71	1,760.00	...	...	...	5,093.55	10,794.50	61,666.18
33.	Mussellshell	58,666.58	...	...	...	...	...	...	58,666.58
34.	Park	34,845.16	880.00	...	...	...	...	...	35,725.16
35.	Petrolcum	59,403.01	1,272.37	...	...	...	...	...	60,675.38
36.	Phillips	175,106.78	...	...	...	...	...	...	175,946.78
37.	Pondera	56,543.96	200.00	...	...	...	...	160.00	56,903.96
38.	Powder River	135,893.99	480.00	...	...	...	...	...	137,069.09
39.	Powell	55,637.19	160.00	...	...	...	160.00	...	56,592.86
40.	Prairie	57,927.44	...	...	...	...	...	...	57,927.44
41.	Ravalli	16,695.31	1,183.49	...	3,200.00	...	...	5,199.64	26,315.52
42.	Richland	67,739.47	...	...	...	...	...	...	67,739.47
43.	Rosevelt	16,554.97	...	...	...	...	...	760.00	17,334.97
44.	Rosebud	165,336.51	2,213.74	...	...	...	...	...	167,514.25
45.	Sanders	37,624.61	...	...	...	...	...	...	38,424.61
46.	Sheridan	28,157.25	...	...	...	...	...	...	28,157.25
47.	Silver Bow	12,034.59	...	...	...	...	...	...	12,034.59
48.	Stillwater	38,621.09	...	...	...	2,130.90	...	...	38,621.09
49.	Sweet Grass	48,491.98	1,280.00	...	...	...	...	...	49,771.98
50.	Teton	92,434.41	2,826.83	...	...	...	...	...	104,854.95
51.	Toole	106,901.24	...	...	...	...	240.00	...	112,476.61
52.	Treasure	33,633.95	...	...	5,427.46	...	...	5,535.37	34,173.95
53.	Valley	193,518.60	480.00	...	40.00	...	...	...	193,548.60
54.	Wheatland	55,442.27	1,120.00	...	...	...	...	...	63,728.70
55.	Willaux	27,688.74	...	...	1,120.00	...	2,369.29	...	27,688.74
56.	Yellowstone	71,984.97	...	...	...	...	...	...	71,984.97
		4,250,482.42	16,781.76	39,449.04	59,059.39	36,327.26	36,519.25	123,548.06	4,692,188.19

MISCELLANEOUS STATE LANDS UNSOLD NOT INCLUDED IN TABLE

Soldiers' Home Grant	1,056.77
Northern Montana Normal and Manual Training School	2,000.00
"Military Camp" now used as Agricultural Experiment Station, part of former Fort Ellis Military Reservation	640.00
Miscellaneous parcels, belonging to the State	267.68
Orphans' Home and Tuberculosis Sanitarium	75.00
	4,039.45
GRAND TOTAL	4,696,227.64

**TABLE No. XI.**  
**LEASES IN EFFECT JUNE 30, 1928**

Showing the Number of Acres Under Lease in Each Grant  
and the Annual Rental

Name of Grant	Grazing Acreage	Annual Grazing Rental	Agri- cultural Acreage	Annual Agri. Rental
Public Schools .....	2,355,692.35	\$283,041.54	93,150.41	\$65,854.60
State University .....	8,368.12	1,148.20	275.00	314.50
Agri. Coll. Morrill Grant.....	48,803.08	7,490.97	98.00	72.30
Agri. Coll. Second Grant.....	9,309.37	1,065.85	157.77	124.15
School of Mines .....	35,362.30	3,800.35	1,513.00	1,214.65
State Normal Schools.....	36,280.43	4,187.12	390.50	497.45
Deaf and Dumb Asylum.....	22,773.34	2,774.50	50.00	25.50
State Reform School.....	19,626.54	2,443.59	244.50	178.95
Capitol Buildings.....	37,647.59	4,849.26	402.00	257.75
Soldiers' Home.....	1,056.77	146.25	.....	.....
General .....	40.00	10.00	20.00	50.00
Totals.....	2,574,959.89	\$310,957.63	96,301.18	\$68,589.85
<b>Summary</b>				
Total Acreage under Grazing Leases.....	2,574,959.89			
Total Annual Rental.....				\$310,957.63
Total Acreage under Agricultural Leases.....			96,301.18	
Total Annual Rental.....				68,589.85
Grand Totals.....	2,671,261.07			\$379,547.48
Average grazing rental per acre.....12 cents plus				
Average agricultural rental per acre.....71 cents plus				

### NOTES ON TABLE NO XI.

As the total area of the unsold State lands exceeds 4,690,000 acres, it will be seen that there is a little more than two million acres of lands not under lease. This circumstance is accounted for very largely by the fact that nearly one-third of the entire state of Montana consists of forests and mountains. The State forest lands are not subject to the ordinary grazing lease, but permits are issued by the State Forester for grazing on these lands at nominal rates. The income from these grazing permits during the last fiscal year exceeded \$7,000.00 as shown by Table No. V. The higher and rougher portions of the forests and the mountain peaks are of course almost without any grazing value. It must also be taken into consideration that certain other sections of the state are so sparsely settled that even privately-owned lands are unfenced and used as public range. In these portions of the state it is almost impossible to lease out lands no matter what the price might be.

As shown under Table XI, the average annual grazing rental is only a shade above 12 cents per acre, and the agricultural rental is less than 72 cents per acre. No one can reasonably contend that these rentals are too high. If anyone should entertain this erroneous idea, let him compare this rental with the annual cost of the use of privately-owned grazing lands. According to the latest published report of the

State Board of Equalization, the average assessed valuation of all privately-owned grazing lands in the state is \$4.82 per acre. Whether a man owns his land outright or pays interest on mortgages on the lands, the investment is entitled to a reasonable earning. Let us figure this earning at the modest rate of 5% per annum, and undoubtedly most farmers pay a far higher rate of interest on borrowed money. At this rate the annual use of the average acre of privately-owned grazing land costs the owner over 24 cents per acre, or twice the average rental charged by the State. If we figure the interest on the investment at 6% per annum the annual cost would be nearly 29 cents per acre. But this is not all; the man who owns his own grazing lands must also pay taxes, and there is no tax on lands leased from the State. The average tax on grazing land for the year 1926 was 7 cents per acre which the owner must pay in addition to the interest on the investment.

This will raise the cost of the annual grazing use of privately-owned land to more than 31 cents per acre if the interest on the investment is figured at 5%; and if we figure the interest on the investment at 6%, the cost including taxes would be about 36 cents per acre, or approximately three times the average rental charged by the State. This should be ample proof that the grazing rentals charged by the State are far from being excessive.

The annual agricultural rental of less than 72 cents per acre is so reasonable that no argument should be necessary. It is figured at the rate of 5% of the appraised value of the land for the land actually farmed, and of course the lessee has no taxes to pay on state-owned lands. For the year 1926 the average tax on all privately-owned land in the State was 14 cents per acre; the average tax on non-irrigated farming land was 19 cents per acre.

### Constitutional Provisions

In discussing the rentals charged on State lands and in discussing the price or charge made for any other use of State land or interest therein, it is well to bear in mind that the use and disposition of State lands are pretty well determined by constitutional provisions, based on the terms and conditions of the Enabling Act granting these lands to the State for the support and maintenance of our schools and colleges. The Supreme Court of our state has repeatedly ruled that the lands granted to the State for these purposes constitute a trust and must be so administered as to yield the best returns to the beneficiaries of the trust. Section 1 of Article XVII of the Constitution provides among other things as follows:

“\* \* \* and none of such land, nor any estate or interest therein, shall ever be disposed of except in pursuance of general laws providing for such disposition, nor unless the full market value of the estate or interest disposed of, to be ascertained in such manner as may be provided by law, be paid or safely secured to the state \* \* \*”

The information just submitted as to the cost of the use of privately-owned lands should be conclusive proof that rentals now prevailing for

State lands do not exceed the full market value required by the Constitution; and the fact that millions of acres of these lands are actually under lease and the rentals are being paid should be absolute proof that the lessees regard the rentals as being within the market value. The people throughout the state are leasing these lands because they find that it pays them to do so and for no other reason whatsoever. Under these circumstances it would appear that a general lowering of rentals on State lands at the present time would be wholly unwarranted and would constitute a betrayal of the trust imposed upon the officials of this state for safeguarding the lands and funds set aside by the federal government for the education of the children of this state.

### **Very Little Delinquent Rentals**

Under Chapter 134 of the 1925 Session Laws now superseded by Chapter 60 of the 1927 Session Laws, the requirement of bonds to secure the payment of rentals has been abolished and the statutes provide for the automatic cancellation of every lease through the failure of the lessee to pay the annual rental each year in advance. These statutes are being strictly followed and as a result no great amount of delinquent rentals will accumulate on leases issued under these statutes. The collection of rentals during the last fiscal year was very considerably in excess of the total annual rental on leases in effect on June 30, 1928. This is accounted for through the fact that under the new legislation the rental year expires on February 28th, and the annual rental for the next year is payable before that date; under this arrangement a considerable amount of rentals which under the old arrangement would not become payable until the second half of the fiscal year were paid during the first half and increased the rental collections during the last fiscal year to that extent.

### **Mrs. Nanita B. Sherlock, Assistant Commissioner, in Charge of Leasing**

Mrs. Nanita B. Sherlock of Lincoln, Montana, is the present Assistant Commissioner of State Lands and Investments and has served continuously since the spring of 1925. Her previous experience both in public office and in private business has admirably fitted her for this position. Mrs. Sherlock has had full charge of the issuance of agricultural and grazing leases which during the last fiscal year brought the State an income exceeding \$427,000.00. During the last portion of the fiscal year the issuance of oil and gas leases has also been under her management. She has conducted all this voluminous and strenuous business with tireless energy, unfailing courtesy, the highest degree of intelligence and efficiency and perfect sincerity and conscientiousness. It would be exceedingly difficult for any one to improve on the service that she has given to the thousands of lessees dealing with the State.



**TABLE No. XII.**  
**OIL AND GAS LEASES IN EFFECT JUNE 30, 1928**  
 (Leases issued before Chapter 108 of the 1927 Session Laws  
 became effective.)

Name of Grant	No. of Leases	No. of Acres Under Lease	Annual Rental
Public School.....	21	9,542.44	\$ 6,600.00
(Leases issued under Chapter 108 of the 1927 Session Laws.)			
Public School.....	209	86,453.95	64,901.38
Agri. Col. Morrill Grant.....	1	40.00	30.00
State Normal School.....	3	469.06	352.50
Capitol Buildings .....	8	1,760.00	1,320.00
Totals under New Law.....	221	88,723.01	\$66,603.88
Totals of all Oil & Gas Leases..	242	98,265.45 acres	\$73,203.88

### THE NEW LEGISLATION GOVERNING OIL AND GAS LEASES ON STATE LANDS

(Chapter 108, 1927 Session Laws)

Before the enactment of this chapter by the Legislative Assembly of 1927 there was very little legislation governing the issuance of oil and gas leases on State lands; one of the few sections in the Code dealing directly with this subject was Section 1882 of the 1921 Code. Legislation on this subject was therefore urgently necessary.

Under the provisions of the said Chapter 108 oil and gas leases on State lands shall be granted for a period not exceeding five years and as long thereafter during the term of fifteen years commencing with the date of the lease as oil and gas in commercial quantities are produced from the land. The annual rental is fixed at the flat rate of 75 cents per acre, but with a minimum annual rental under any one lease of \$50.00.

The lessee is required to drill at least one well on the land under his lease within two years from the date of the lease. The State Board of Land Commissioners may, however, in its discretion extend the time for the commencement or completion of such drilling upon the payment of a penalty of one dollar per acre per year for each year beginning with the third year of the lease, payable annually in advance.

In addition to these rentals and penalties, if any, there shall be reserved to the State a royalty on the oil and gas produced and saved, which royalty shall in no case be less than 12½% of the production.

Under the provisions of this act the State Board of Land Commissioners has adopted a form for oil and gas lease setting out in detail the rights and obligations both of the lessor and the lessee. Under

Section 3 of this lease the royalties to be paid to the State are graduated according to the production as follows:

- A. On that portion of the average production of oil or casing-head gasoline for each producing well not exceeding 3000 barrels for the calendar month, twelve and one-half per centum ( $12\frac{1}{2}\%$ ).
- B. On that portion of the average production of oil or casing-head gasoline for each producing well exceeding 3000 barrels but not exceeding 6000 barrels for the calendar month, seventeen and one-half per centum ( $17\frac{1}{2}\%$ ).
- C. On that portion of the average production of oil or casing-head gasoline for each producing well exceeding 6000 barrels for the calendar month, twenty-five per centum (25%).

The royalty on gas is fixed at the flat rate of  $12\frac{1}{2}\%$ . Since this lease went into effect, no production on State lands has brought the State's royalty above  $12\frac{1}{2}\%$ .

The lessee is also required to furnish a surety company bond in the amount of \$1,000.00 conditioned for the faithful performance of his obligations under the lease, and the State Board of Land Commissioners reserves the right to increase this bond if found necessary.

Under this legislation all existing oil and gas leases issued by the State before Chapter 108 went into effect, are ratified, confirmed and approved subject only to the provision that the holder of any such lease must within 90 days give his consent in writing to the amendment of the former lease so as to give the State the right at all times to receive its royalties in money or in oil. -

The holder of an oil and gas lease previously issued by the State is also given the right to exchange the former lease for a lease issued under the new act.

No serious difficulty has been experienced in administering this legislation; it works well.

TABLE No. XIII.  
EASEMENT DEEDS TO STATE LANDS ISSUED FROM  
JULY 1, 1926, TO JUNE 30, 1928

For What Purpose	No. of Deeds Issued	Acres	Compensation	Fees
Rights of Way for Public highways, Telephone Telegraph and Pipe Lines..	101	375.83	\$4,983.76	\$385.00
Railway Rights of Way.....	6	38.25	3,760.14	30.00
School House Sites.....	7	14.53	221.75	35.00
Cemetery Site (at Nashua)..	1	5.98	150.00	5.00
Water Supply and Park, etc., at Stanford.....	1	10.00	375.00	5.00
Totals.....	116	444.59	\$9,490.65	\$460.00

The easements for railway rights of way include 26 lots in the Second School Addition to Shelby used for a wye.

Compensation for easements is regarded as payment on the land itself and added to the permanent fund of the institution to which the land belongs.

Reference to the new legislation under which easements are granted is made on page nine of this report.

TABLE No. XIV.  
SUMMARY OF ALL LAND SALES FOR THE TWO FISCAL YEARS BEGINNING JULY 1, 1926,  
AND TERMINATING JUNE 30, 1928

Date	Name of County	Public School (acres)	University (acres)	Agri. Coll. 2nd Gt. (acres)	School of Mines (acres)	State Normal School (acres)	Capitol Building (acres)	Orphans Home (acres)	T. B. Sanatorium (acres)	Total Acres	Total Sales Price	Aver. Price Per Acre
July 1st, 1926 to June 30th, 1927	Blaine	480.00								480.00	\$ 8,160.00	
	Valley	10,517.56								10,517.56	143,287.88	
	Roosevelt	2,630.34								2,630.34	43,823.40	
	Sheridan	4,121.64								4,121.64	64,156.40	
	Daniels	28,843.35								28,843.35	393,763.13	
	Totals	46,592.89								46,592.89	\$653,190.81	\$14.019
July 1st, 1927 to June 30th, 1928	Richland	572.23								572.23	10,451.50	
	Dawson*	2,560.00								2,560.00	42,715.00	
	Wibaux	800.00								800.00	22,240.00	
	Prairie	800.00								800.00	16,160.00	
	Fallon	2,213.12								2,213.12	24,797.44	
	Rosebud	457.79								457.79	8,297.90	
	Treasure	320.00								320.00	8,520.00	
	Big Horn	4,070.32								4,070.32	42,143.20	
	Yellowstone	409.36								409.36	28,136.00	
	Carbon	680.00	160							840.00	21,560.00	
	Stillwater	1,640.00								1,640.00	20,420.00	
	Sweet Grass	1,709.17						10	10	1,709.17	20,550.91	
	Park	2,080.00								2,080.00	36,400.00	
	Gallatin	817.70								817.70	30,498.00	
	Toolet†	30.00			764.46	680	445.41			475.41	11,723.20	
	Pondera	1,229.51								1,229.51	24,467.63	
	Teton	4,175.60								4,175.60	58,093.00	
	Cascade	1,157.52	57.22							1,214.74	31,114.88	
	Totals	25,881.72	57.22	160	764.46	680	445.41	10	10	10,280.08	\$ 503,170.66	\$17.95+
TOTAL FOR BOTH YEARS											74,601.70	\$1,156,361.47

\* There were 16 town lots sold in Dawson county for a total sales price of \$1,355.00, or an average of \$84.6867 per lot; this is included in total price above.

† There were 15 town lots sold in Tootle county for a total sales price of \$3,125.00, or an average of \$208.33 per lot; this is included in total sales price above.

The average sales price for the last fiscal year was higher than usual largely because exceptionally valuable lands adjoining Billings, Bozeman, Great Falls, and other cities were sold at high prices.

TABLE No. XV.  
SUMMARY OF ALL LAND SALES UP TO JUNE 30, 1928

Fiscal Year	Public School	Uni- versity	Agri. College Morrell	Agri. 2nd Gl.	School of Mines	State Normal	Deaf & Dumb	State Reform	Capitol Building	Total Acres	Total Sales Price	Ave. Price Per Acre
1897 and Prior Yrs.	Acres	Acres	Acres	Acres	Acres	Acres	Acres	Acres	Acres	Acres	\$	
1898	10,070.76	2,870.13				80.00		960.00	641.98	14,622.87	186,280.89	\$12,739
1899	1,816.06	160.00				160.00			40.00	2,176.06	24,975.50	11,063
1900	2,442.03	608.42					560.00			3,726.75	41,110.00	11,031
1901	769.00	82.70		116.30						842.70	12,092.00	14,349
1902	2,076.00	520.00	233.28	40.00	262.81	363.13	280.00	339.40	622.80	4,737.47	61,029.90	12,882
1903	9,031.29	3,364.90	80.00	286.90	193.00	417.26	120.00	320.00	1,400.30	15,409.65	227,226.24	14,745
1904	10,294.29	3,334.95	416.06	781.85	193.00	1,027.12	376.54	17.20	945.08	16,384.07	175,084.66	10,785
1905	6,227.41	716.90	338.43	247.52	9.37	1,102.90	8.58	6.08	208.06	8,865.25	142,118.02	16,030
1906	5,878.82	828.67	103.37	120.00	409.83	524.18	1,000.00	40.00	1,301.34	10,206.21	114,836.31	11,251
1907	16,671.27	520.00	392.48	760.00	373.58	568.86	778.41	487.37	2,044.12	22,508.10	287,407.43	12,718
1908	16,356.36	1,117.29	3,820.75		7,182.18	9,358.26	2,056.15	1,937.02	9,904.27	54,711.62	777,512.20	14,241
1909	3,800.86	36.48	934.06		5,640.06	4,802.31	3,470.61	610.00	9,650.15	51,020.81	604,288.00	11,843
1910	97,826.38	9,507.15		06	14.78	494.42			660.79	5,007.89	80,398.50	16,054
1911	51,704.06	640.00	1,035.67	993.81	11,364.96	5,710.04	320.00	329.53	16,256.85	142,338.72	2,733,171.98	19,201
1912	188,258.13	2,537.52	3,920.11	2,836.04	6,657.43	1,592.00	1.23	160.00	2,600.00	56,897.91	739,388.72	12,819
1913	84,513.59	1,399.73	1,963.21	2,219.40	2,107.41	2,632.36	440.00	876.48	2,820.24	21,210.86	3,359,866.37	16,126
1914	19,040.82	23.02	280.00	1,218.65		3.38	313.18	3,271.32	5,048.61	103,506.45	1,670,852.23	16,142
1915	54,745.26	861.78	1,185.08	235.85	1,910.93	931.08	151.38	1,396.60	637.36	23,133.06	325,712.85	14,019
1916	113,770.54	1,720.62	2,726.18	1,480.00	1,999.86	1,573.07	1,167.81	200.83	869.69	62,341.03	971,463.59	15,583
1917	66,071.51	557.21	1,840.00	560.00	3,843.07	240.00	1,840.00	1,410.78	884.40	77,246.97	1,213,123.28	15,691
1918	102,584.68	160.00	2,489.34	14.63	2,921.74	1,282.79	211.70	440.00	274.88	110,219.76	1,870,368.24	16,960
1919	145,905.46	1,042.00	785.06	232.50	1,765.76	1,288.11	1,360.00	240.22	6,311.81	158,048.92	2,491,803.44	15,767
1920	22,036.93							160.32	251.23	24,270.70	369,095.36	15,207
1921	2,138.44							480.00		2,918.44	47,571.91	16,300
1922	630.01						4.31			634.32	7,391.32	11,296
1923	731.91		79.90				831.25			1,643.06	16,430.60	10,000
1924	145.83		120.00	.97		8.83	22.59		1.11	299.33	4,466.98	14,856
1925	2,026.62					40.80				2,067.42	49,892.54	24,123
1926	53,088.14									53,146.98	750,960.29	14,129
1927	46,592.89									46,592.89	653,190.81	14,019
1928	25,881.72	57.22		160.00	764.46	680.00			445.41	28,008.81	503,170.66	17,951
Totals	1,182,874.05	31,894.91	31,866.60	12,304.48	49,087.70	35,182.91	16,013.84	14,828.11	165,232.19	1,439,523.63	\$22,508,982.01	\$15,636

As already explained in this report a great number of sales contracts have been cancelled on account of delinquency in payments. These cancellations are not taken into account in this summary; the summary shows the results of the sales as they were made.

In 1916 there was sold 160 acres Soldiers' Home land at \$18.00 per acre, amounting to \$2,880.00; and in 1926 58.84 acres at \$18.00 per acre, amounting to \$1,059.12. These sales are included in the totals above given. At the 1928 sales 20 acres were sold belonging to the Orphans' Home and T. B. Sanitarium fund; both the acreage and the proceeds are included in the totals of the 1928 sales.

**TABLE No. XVI.**  
**COST OF ADMINISTRATION**

		July 1, 1926-June 30, 1927	July 1, 1927-June 30, 1928
<b>Office of Commissioner of State Lands and Investments</b>			
<b>Salaries:</b>			
Commissioner .....	\$ 3,600.00	\$ 3,600.00	
Assistant Commissioner .....	2,400.00	2,400.00	
Other Salaries .....	12,426.98	\$18,426.98	\$20,783.59
Premium on Official Bonds .....		137.50	137.50
Postage .....		590.00	1,206.80
Telephone and Telegraph .....		191.49	222.40
Record Books and Blanks .....		218.75	1,021.90
Printing and Binding Publications .....		304.00	
Sundry Office Supplies and Expenses .....		1,033.03	504.88
U. S. Land Office Filing Fees for Lieu Land Selections .....		1,192.00	
Legal Advertising of Lieu Land Selections .....		128.50	94.25
U. S. Plats of New Surveys .....		22.50	55.00
Mileage and Expenses Attending Bond Sales .....		19.11	74.04
Field Work .....		230.73	
Expense of Land Sales:			
Advertising Lands Offered for Sale .....	\$ 531.15	\$ 1,385.03	
Mileage and Expense Attending Land Sales .....	135.53	279.85	
Rent of Scobey Hall at Land Sale .....	60.17	726.85	1,664.88
Furniture and Equipment:			
New Equipment .....	\$ 748.40	\$ 168.95	
Fixtures, Repairs .....	20.25	10.92	179.87
		\$23,990.09	\$25,945.11
<b>Office of State Land Agent</b>			
Salary of the State Land Agent .....	\$ 3,250.00	\$ 3,250.00	
Salaries of Deputies .....	4,700.00	5,947.50	
Traveling Expenses of Fieldmen and Other Operating Expenses .....	5,066.90	13,016.90	16,454.70
Total Cost of Administration .....		\$37,006.99	\$42,399.81

The increased appropriation made for the State Land Agent for the last fiscal year enables him to keep six men in the field during the summer months. Considering the fact that the federal land grants embrace about one-sixteenth of the total area of the state, it will readily be seen that this number is by no means too great. Their work and the expenses involved have been fully justified by the results.

**TABLE No. XVII**  
**RECEIPTS FROM STATE LANDS AND THE**  
**PERMANENT FUNDS BY YEARS**

Prior to 1896 .....	\$	172,190.71
During 1896 .....		38,185.23
1897 .....		101,755.98
1898 .....		126,833.71
1899 .....		200,195.20
1900 .....		200,275.25
1901 .....		293,335.75
1902 .....		363,584.63
1903 .....		388,279.13
1904 .....		389,812.60
1905 .....		357,790.52
1906 .....		651,352.62
1907 .....		829,480.06
1908 .....		805,105.35
1909 .....		434,420.96
1910 .....		826,836.01
1911 .....		695,771.74
1912 .....		1,306,892.75
1913 .....		1,223,857.96
1914 .....		1,122,205.27
1915 .....		1,219,602.97
1916 .....		1,657,639.21
1917 .....		1,812,812.29
1918 .....		1,828,712.43
1919 .....		2,263,728.95
1920 .....		1,770,070.57
1921 (Dec. 1, 1920, to June 30, 1921) .....		699,653.74
1922 .....		1,290,891.25
1923 .....		1,408,325.48
1924 .....		1,183,456.66
Total .....		\$25,663,054.98

  

	Income	Receipts for Permanent Funds	
July 1, 1924-June 30, 1925 .....	\$1,101,763.73	\$360,994.55	\$ 1,462,758.28
July 1, 1925-June 30, 1926 .....	1,276,841.10	645,211.40	1,922,052.50
July 1, 1926-June 30, 1927 .....	1,403,869.20	697,056.60	2,100,920.80
July 1, 1927-June 30, 1928 .....	1,583,485.78	703,791.39	2,287,277.17
GRAND TOTALS .....			\$33,436,063.73

This table shows the receipts both for the income funds and for the permanent funds belonging to the public schools and the state institutions of learning for which federal land grants were made and also the receipts for the Capitol Building Fund. For the last four fiscal years the income has been separated from the receipts belonging to the permanent funds, but the receipts for the permanent funds for these four fiscal years do not include repayments on bonds, warrants and other investments; only the original receipts for these permanent funds are here shown. For an itemized statement of all receipts both for the income funds and the permanent funds for these years see Tables Numbered I to VIII, inclusive.

**TABLE No. XVIII**  
**ANNUAL APPORTIONMENT OF THE INCOME FROM THE PUBLIC**  
**SCHOOL PERMANENT FUNDS, ETC., TO THE SCHOOL**  
**DISTRICTS OF THE STATE**

YEAR	Amount Apportioned	Number of Persons of School Age	Amount Per Capita
1889 to 1896 .....	\$ 51,027.60	39,252	\$1.30
1897 .....	17,731.56	42,218	.42
1898 .....	28,630.98	46,179	.62
1899 .....	41,561.52	49,478	.84
1900 .....	80,428.50	53,619	1.50
1901 .....	105,842.20	57,212	1.85
1902 .....	138,905.00	61,736	2.25
1903 .....	168,019.80	64,623	2.60
1904 .....	169,786.65	66,583	2.55
1905 .....	183,366.75	69,195	2.65
1906 .....	205,360.60	70,814	2.90
1907 .....	217,494.00	72,498	3.00
1908 .....	227,071.90	73,249	3.10
1909 .....	250,380.00	77,040	3.25
1910 .....	305,793.75	81,545	3.75
1911 .....	266,415.00	88,805	3.00
1912 .....	345,404.50	98,687	3.50
1913 .....	419,096.00	104,774	4.00
1914 .....	513,144.00	114,032	4.50
1915 .....	632,085.00	126,417	5.00
1916 .....	713,291.25	135,865	5.25
1917 .....	810,991.50	147,453	5.50
1918 .....	877,536.00	159,552	5.50
1919 .....	890,873.50	161,577	5.50
1920 .....	969,756.00	161,625	6.00
1921 .....	954,418.20	156,426	6.10
1922 .....	785,082.90	160,211	4.90
1923 .....	936,794.40	160,410	5.84
1924 .....	892,363.54	157,745	5.67

  

	Income From Permanent Fund	25% of Oil Tax	50% of Metals Mines Tax	Total	Less 5% Added to Perm. Fund			
1925 ....	\$ 850,360.89	\$10,917.67	.....	\$ 861,278.56	\$43,063.93	\$ 818,214.63	157,872	\$5.18+
1926 ....	1,038,624.11	26,878.08	\$187,093.64	1,252,595.83	62,629.79	1,189,966.04	156,383	7.61
1927 ....	1,121,130.17	41,190.62	202,860.30	1,365,181.09	68,259.05	1,296,922.04	154,458	8.3966
1928 ....	1,233,910.50	.....	.....	1,233,910.50	61,695.53	1,172,090.55	152,119	7.70509

\* There was a balance of \$124.42 not apportioned.

This table shows the amount of money actually apportioned by the State to the school districts of the various counties. The apportionments made up to and including the year 1923 undoubtedly represented almost exclusively the income from the public school permanent funds and grant. The apportionments made in 1925, 1926, and 1927 include certain receipts from the oil tax and metals mines tax as shown in the table.

Chapter 67 of the Session Laws of 1923 provides for the levy and collection of an oil license tax of 2% of the gross value of the crude oil produced within the state and further provides that the State Treasurer shall annually transfer to the school income fund 25% of such tax.

At the general election in 1924 the people of the state adopted Initiative Measure No. 28 providing for a license tax on metalliferous mines, and 50% of this tax was to go to the public school income fund. The foregoing table shows how much has been derived from each one of these sources.



Chapter 119 of the 1927 Session Laws provides that such proceeds from these license taxes shall no longer become a portion of the public school income fund, but shall be transferred to a fund to be known as the State Common School Equalization Fund. By the terms of the act the State Board of Education is declared to be the Common School Equalization Board, to administer and distribute the equalization fund as further provided in the act. This distribution is entirely separate from the apportionment of the public school income fund.

As a result the apportionment made in 1928 is more than \$100,000.00 less than the apportionment made in 1927, notwithstanding the fact that the income through this department apportioned in 1928 was by far the largest income ever received during any year in its history.

The apportionment of this income is governed by Section 5 of Article XI of the State Constitution and various statutory provisions. The apportionment is usually made in the beginning of March of each year, and includes the collections for the last previous calendar year. It is calculated on the basis of the number "of children and youths between the ages of six and twenty-one residing" in each school district.

**TABLE No. XIX.**  
**THE 1926 APPORTIONMENT BY COUNTIES**

This table shows the number of census children in each county, and the amount of the apportionment. The rate was 7.61 per child.

County	No. of Census Children	Amount Apportioned
Beaverhead.....	1,817	\$ 13,826.11
Big Horn.....	2,860	21,762.61
Blaine.....	2,352	17,897.09
Broadwater.....	762	5,798.36
Carbon.....	5,187	39,469.46
Carter.....	1,236	9,405.11
Cascade.....	10,587	80,559.68
Chouteau.....	2,503	19,046.09
Custer.....	2,961	22,531.15
Daniels.....	1,855	14,115.27
Dawson.....	2,833	21,557.16
Deer Lodge.....	4,133	31,449.25
Fallon.....	1,464	11,140.03
Flathead.....	5,414	41,196.77
Fergus.....	5,608	42,672.97
Gallatin.....	4,713	35,862.65
Garfield.....	1,325	10,082.34
Glacier.....	1,927	14,663.14
Golden Valley.....	812	6,178.77
Granite.....	821	6,247.25
Hill.....	3,563	27,111.95
Jefferson.....	1,186	9,024.65
Judith Basin.....	1,878	14 290.28
Lake.....	3,104	23,619.28
Lewis and Clark.....	4,804	36,555.09
Liberty.....	683	5,197.17
Lincoln.....	2,577	19,609.18
McCone.....	1,287	9,793.19
Madison.....	1,739	13,232.59
Meagher.....	582	4,428.63
Mineral.....	549	4,177.52
Missoula.....	5,689	43 289.32
Musselshell.....	2,721	20,704.92
Park.....	3,104	23,619.28
Petroleum.....	765	5,821.13
Phillips.....	2,591	19,715.71
Pondera.....	1,995	15,180.57
Powder River.....	1,049	7,982.17
Powell.....	1,447	11,010.67
Prairie.....	1,355	10,310.62
Ravalli.....	2,935	22,333.31
Richland.....	3,304	25,141.14
Roosevelt.....	3,399	25,864.03
Rosebud.....	2,088	15,888.23
Sanders.....	1,554	11,824.87
Sheridan.....	3,236	24,623.71
Silver Bow.....	14,676	111,674.10
Stillwater.....	2,067	15,728.44
Sweetgrass.....	1,189	9,047.47
Teton.....	1,728	13,148.89
Toole.....	1,373	10,447.58
Treasure.....	583	4,436.24
Valley.....	3,215	24,463.92
Wheatland.....	1,295	9,854.06
Wibaux.....	1,096	8,339.81
Yellowstone.....	8,807	67,015.12
<b>TOTAL.....</b>	<b>156,383</b>	<b>\$1,189,966.04</b>

TABLE No. XX.

## THE 1927 APPORTIONMENT BY COUNTIES

This table shows the number of census children in each county, and the amount of the apportionment. The rate was 8.3966 per child.

County	No. of Census Children	Amount Apportioned
Beaverhead.....	1,569	\$ 13,174.27
Big Horn.....	2,782	23,359.34
Blaine.....	2,310	19,396.15
Broadwater.....	774	6,498.97
Carbon.....	5,102	42,839.45
Carter.....	1,302	10,932.38
Cascade.....	10,635	89,297.84
Chouteau.....	2,477	20,798.38
Custer.....	2,747	23,065.46
Daniels.....	1,920	16,121.48
Dawson.....	2,765	23,216.60
Deer Lodge.....	4,158	34,913.06
Fallon.....	1,484	12,460.55
Flathead.....	5,556	46,651.51
Fergus.....	5,457	45,820.24
Gallatin.....	4,797	40,278.49
Garfield.....	1,339	11,243.05
Glacier.....	1,837	15,424.55
Golden Valley.....	734	6,163.10
Granite.....	779	6,540.95
Hill.....	3,708	31,134.59
Jefferson.....	1,200	10,075.92
Judith Basin.....	1,708	14,341.39
Lake.....	3,045	25,567.65
Lewis and Clark.....	4,625	38,834.27
Liberty.....	649	5,449.39
Lincoln.....	2,281	19,152.64
McCone.....	1,207	10,134.69
Madison.....	1,748	14,677.26
Meagher.....	549	4,609.74
Mineral.....	519	4,357.84
Missoula.....	5,647	47,415.60
Musselshell.....	2,688	22,570.06
Park.....	3,055	25,651.61
Petroleum.....	690	5,793.66
Phillips.....	2,590	21,747.19
Pondera.....	1,983	16,650.46
Powder River.....	1,068	8,967.57
Powell.....	1,519	12,754.44
Prairie.....	1,342	11,268.24
Ravalli.....	3,043	25,550.85
Richland.....	3,389	28,456.08
Roosevelt.....	3,425	28,758.35
Rosebud.....	2,042	17,145.86
Sanders.....	1,504	12,628.49
Sheridan.....	3,254	27,322.54
Silver Bow.....	13,457	112,993.04
Stillwater.....	2,076	17,431.34
Sweetgrass.....	1,209	10,151.49
Teton.....	1,806	15,164.26
Toole.....	1,456	12,225.45
Treasure.....	557	4,676.91
Valley.....	3,554	29,841.51
Wheatland.....	1,242	10,428.58
Wibaux.....	1,025	8,606.51
Yellowstone.....	9,074	76,190.75
<b>TOTAL.....</b>	<b>154,458</b>	<b>\$1,296,922.04</b>

**TABLE No. XXI.**  
**THE 1928 APPORTIONMENT BY COUNTIES**

This table shows the number of census children in each county, and the amount of the apportionment. The rate was 7.70509.

County	No. of Census Children	Amount Apportioned
Beaverhead.....	1,469	\$ 11,318.77
Big Horn.....	2,783	21,443.26
Blaine.....	2,294	17,675.48
Broadwater.....	739	5,694.06
Carbon.....	4,747	36,576.06
Carter.....	1,190	9,169.06
Cascade.....	10,486	80,795.55
Chouteau.....	2,440	18,800.42
Custer.....	2,922	22,514.28
Daniels.....	1,850	14,254.42
Dawson.....	2,707	20,857.68
Deer Lodge.....	4,167	32,107.11
Fallon.....	1,419	10,933.52
Flathead.....	5,500	42,378.00
Fergus.....	5,368	41,360.93
Gallatin.....	4,877	37,577.72
Garfield.....	1,253	9,654.48
Glacier.....	1,700	13,098.65
Golden Valley.....	695	5,355.04
Granite.....	787	6,063.90
Hill.....	3,630	27,969.48
Jefferson.....	1,153	8,883.97
Judith Basin.....	1,694	13,052.42
Lake.....	3,047	23,477.41
Lewis and Clark.....	4,517	34,803.89
Liberty.....	647	4,985.19
Lincoln.....	2,140	16,488.89
McCone.....	1,196	9,215.29
Madison.....	1,684	12,975.37
Meagher.....	563	4,337.97
Mineral.....	492	3,790.90
Missoula.....	5,553	42,786.36
Musselshell.....	2,566	19,771.26
Park.....	2,971	22,891.83
Petroleum.....	645	4,969.78
Phillips.....	2,547	19,624.86
Pondera.....	1,852	14,269.83
Powder River.....	1,062	8,182.81
Powell.....	1,458	11,234.02
Prairie.....	1,265	9,746.93
Ravalli.....	3,033	23,369.54
Richland.....	3,157	24,324.97
Roosevelt.....	3,415	26,312.89
Rosebud.....	1,970	15,179.03
Sanders.....	1,464	11,280.25
Sheridan.....	3,409	26,266.66
Silver Bow.....	13,774	106,129.91
Stillwater.....	2,107	16,234.63
Sweetgrass.....	1,171	9,022.66
Teton.....	1,863	14,354.58
Toole.....	1,588	12,235.68
Treasure.....	484	3,729.26
Valley.....	3,603	27,761.44
Wheatland.....	1,159	8,930.20
Wibaux.....	952	7,335.24
Yellowstone.....	8,895	68,536.76
<b>TOTAL.....</b>	<b>152,119</b>	<b>\$1,172,090.55</b>

## HISTORY OF THE FEDERAL LAND GRANTS

(Reprinted from the Last Biennial Report)

As all the affairs of the department appear to originate in certain land grants from the Federal Government to the State of Montana, it seems appropriate to give a brief history of these grants. But let us not blindly assume that these land grants constitute the real origin; by such assumption we should fail to realize their deeper significance. Back of these magnificent gifts there lies a great purpose; and to understand this purpose we must understand the spirit that actuated the givers—the Fathers of this Republic—and the age in which they lived.

The idea and purpose of the federal land grants date back to an age that represents a great turning point in human affairs, especially in the sphere of government and social organization, but at the same time an age of darkness and gloom and narrowness and poverty as compared with the richer, larger and sunnier life prevailing throughout large portions of the civilized world today. In that age a government in which all the people had some share was practically unknown; the education of the masses had never been tried and was dreamt of only by a very few; whatever enjoyment and comfort and culture there were for a small portion of society rested very largely upon the enforced toil and drudgery of the masses, and even upon the actual commercial ownership of a great number of human beings by others through the black institution of slavery.

But in the same age there also lived a growing number of altruistic men endowed with sympathetic comprehension of human life and inspired with visions of its liberation and enrichment. In the minds of these there gradually dawned a luminous truth, a guiding light—the **consciousness of the worth and value and dignity of the common human life**. Listen to the immortal words of Thomas Jefferson in the Declaration of Independence: "We hold these truths to be self-evident: That all men are created equal; that they are endowed by their Creator with certain inalienable rights; that among these are life, liberty and the pursuit of happiness." These truths embody a deep realization of the essential equality of all men, a profound respect and a devout esteem for human life as such, and they breathe the fruitful spirit of living sympathy with a struggling race. It is in reality the spirit of awakening humanity itself speaking through the founders of a nation.

In this spirit and on these principles, our forefathers founded the most stupendous experiment in democracy that the world ever saw; and it is worth noting that this spirit and these principles still remain among the most vital forces in improving political government and social organization. It was the earnest faith and fervent hope of the fathers that this form of government more than any other would insure a high degree of liberty, foster equality, and "aid in the pursuit of happiness." But they realized that in order to make this form of government a successful and enduring institution it was necessary to educate the masses. So they encouraged the establishment of public

schools and inaugurated the policy of granting lands to aid in their perpetual maintenance.

The earliest educational land grants which I have been able to discover date back to the Continental Congress. On May 20th, 1785, this body passed an ordinance reserving "the lot No. 16 of every township for the maintenance of public schools within the said township." This ordinance of the Continental Congress applied only to the "Western Territory," embracing the present states of Wisconsin, Illinois, Indiana, Ohio and Michigan; but from the grants then made developed the general policy of the United States of granting lands for the support of schools. It was gradually extended to all new states having public lands, and the grant was increased to cover two or more sections in each township.

The adoption of this policy is undoubtedly one of the great events in American history. The Public School has wrought mightily in the marvelous making of America. It has been a great power in liberating and enriching the life of the individual, and it has proved itself the most powerful agency under the control of the state for moulding the various and numerous elements of our population into one people and one nation.

There is one other act in the development of the land grant policy of the United States which has had such far-reaching effects that it is more than worthy of special mention. This is the Morrill Act, so named after its author, Justin Smith Morrill, of Vermont. He served as a member of the House of Representatives from 1854 to 1866 and was a member of the Senate from 1867 to his death in 1898. Briefly stated, the act that he formulated provides for the granting "to the several states" of thirty thousand acres of land for each senator and representative in Congress for the "endowment, support and maintenance of at least one college where the leading object shall be" . . . "to teach such branches of learning as are related to agriculture and the mechanic arts" . . . "in order to promote the liberal and practical education of the industrial classes in the several pursuits and professions of life." This Act was first passed by Congress in 1857 but vetoed by President Buchanan. It was passed a second time in 1862 and approved by President Lincoln on July 2nd of that year. Various amendatory and supplementary acts have been passed since that time. Under these acts some seventy colleges have been established throughout the Union.

It is impossible to estimate the enormous benefits that have resulted from these institutions to a country and in an age in which "agriculture and the mechanic arts" have played such a dominant part in the forward march of civilization and in the liberation and enrichment of human life.

The federal land grant policy has been made applicable to the State of Montana mainly through the Enabling Act, admitting the state into the Union. Section 14 of the so-called Organic Act, creating the Territory of Montana "reserved" sections sixteen and thirty-six in each township for school purposes; but the real grant is made through the Enabling Act. Minor grants for various purposes have been made

through subsequent acts. The following statement enumerates all our land grants, shows the acreage of each, and makes reference to the acts under which they were made:

## FEDERAL LAND GRANTS TO THE STATE OF MONTANA.

### Public School Grant. (Sec. 10 of Enabling Act.)

This grant embraces sections 16 and 36 of each township of the state outside permanent national reservations, and makes provision for selecting lieu lands for such of these sections that have been lost to the state. Total grant about .....	5,188,000 acres
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### State University Grants.

Section 14 of the Enabling Act grants seventy-two sections, to be sold for not less than \$10 per acre, the proceeds to constitute a permanent fund, "the income thereof to be used exclusively for university purposes;" total grant .....	46,080 acres
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The Act of Congress approved March 9, 1904, (33 Stat. 64) grants the south half, and the south half of the north half of Sec. 26, Twp. 13N, of Rge. 19 West, adjoining the original campus "for university purposes".....	480 acres
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The Act of Congress of March 3, 1905, (33 Stat. L. 1080) grants 160 acres for a biological station; this land has been selected on Blue Bay on Flat-head Lake .....	160 acres
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Total.....	46,720 acres
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### Agricultural College Grants.

Sec. 16 of Enabling Act grants..... (This is really the Morrill Grant made applicable to Montana.)	90,000 acres
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Sec. 17 of Enabling Act makes an additional grant of.....	50,000 acres
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140,000 acres

### Grant for School of Mines.

Sec. 17 Enabling Act.....	100,000 acres
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### Grant for State Normal Schools.

Sec. 17 Enabling Act.....	100,000 acres
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### State Reform School Grant.

Sec. 17 Enabling Act.....	50,000 acres
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### Deaf and Dumb Asylum.

Sec. 17 Enabling Act.....	50,000 acres
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### Grants for Public Buildings at the State Capital:

Sec. 12 of Enabling Act.....	32,000 acres
Sec. 17 of Enabling Act.....	150,000 acres

182,000 acres

Total of all these grants .....	5,856,720 acres
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## MINOR GRANTS

### Militia Camp.

The Act of Congress approved February 13, 1891, (26 Stat. L. 748), grants to the State of Montana one section of land within the abandoned Fort Ellis Military Reservation in Gallatin County for a permanent militia camp "or other public uses." The state selected the following lands for these purposes:

SE $\frac{1}{4}$  of SE $\frac{1}{4}$ , Sec. 10; the N $\frac{1}{2}$ , the SW $\frac{1}{4}$ , the W $\frac{1}{2}$ SE $\frac{1}{4}$  and NE $\frac{1}{4}$  of SE $\frac{1}{4}$  of Sec. 15, all in Twp. 2 S. of Rge. 6 E. By State Senate concurrent resolution approved January 30, 1923, this land is now dedicated to the Agricultural Experiment Station.

### Grant for Soldiers' Home.

The Act of March 2nd, 1895, (28 Stat. 938) authorizes the Governor of the State of Montana to select two sections of land within the abandoned Fort Maginnis Military Reservation in Fergus County, "for the maintenance of a soldiers' home, or for other public purposes." But the act further provides that these lands shall be in part satisfaction of the lands already granted to the state by section 17 of the Enabling Act, and consequently this act does not increase the total grants to the State. The State selected a total of 1275.61 acres in sections 1 and 2 of Twp. 16 N. of Rge. 20 E. and in sections 34 and 35 of Twp. 17 N. of Rge. 20 E. and deducted this acreage from the State Reform School Grant. At this writing a total of 218.84 acres has been sold at the price of \$18.00 per acre, leaving unsold 1,056.77 acres. All income is available for the maintenance of the Soldiers' Home at Columbia Falls.

### Grant for Agricultural and Manual Training School.

The Act of Congress approved February 11th, 1915, (38 Stat. 807) authorizes the granting to the State of Montana of 2000 acres of land at the price of \$2.50 per acre within the abandoned Fort Assiniboine Indian Reservation for the establishment of an "agricultural, manual training or other educational institution." The land carried with it valuable buildings. By act of the State Legislature approved March 8, 1913, the State of Montana had already made a provision for consummating this deal with the United States, and had established and located "The Northern Montana Agricultural and Manual Training School" at Fort Assiniboine. (Sections 917 to 925 of the Revised Codes of 1921.) The two thousand acres of land were subsequently selected in sections 21, 22, 27, 28, 29, 32, 33 and 34 of Twp. 32 N. of Rge. 15 E., in Hill County.

### State Penitentiary.

The last three lines of Section 15 of the Enabling Act read as follows: "The penitentiary at Deer Lodge City, Montana, and all lands connected therewith and set apart and reserved therefor, are hereby granted to the State of Montana." As far as known this is the smallest land grant made to the State, embracing a little less than nine and three-fourths acres, but it has an interesting history which has been furnished by Frank Conley, a former warden of the State Penitentiary, a summary of which is as follows:

Under date of October 20, 1864, J. S. Pemberton, C. A. Broadwater, and others incorporated as the Deer Lodge Town Company and by the same instrument they also "pre-empted" under a certain townsite act 32 acres of unsurveyed land on the Deer Lodge River.

Under date of January 16, 1868, these incorporators proceeded to plat this land as "Deer Lodge City, in Deer Lodge County, Montana Territory." The plat was filed for record in Deer Lodge County August 6, 1869.



Under date of March 3, 1868, this townsite company deeded certain blocks to the United States of America in consideration of the sum of \$500.00 for penitentiary purposes.

Under date of June 29, 1868, the same townsite company executed a quit claim deed to the United States of America covering the same land in order to convey better title. This conveyance covers all of Blocks 90, 104, 115 and parts of Blocks 89, 105, 114, and parts of certain streets, containing in all 420,320 square feet, according to the plat of Deer Lodge City at that time.

Since that time the plat has been changed and according to Frank Conley the land above described is the same as Blocks 52, 53, 62 and the E½ of Blocks 63 and 67 of the present townsite.

It appears that at the time of these conveyances to the United States, the Deer Lodge Town Company had not obtained good title from the United States to the land embraced within the townsite. Under date of June 15, 1872, the United States of America issued a patent to D. P. Newcomer, Probate Judge of Deer Lodge County, Montana Territory, to the land originally pre-empted by the townsite company and platted as Deer Lodge City to be held "in trust for the several use and benefit of the occupants of the townsite of Deer Lodge according to their respective interests." There is no record of any conveyance from Judge Newcomer to the State of Montana, but the last three lines of Section 15 of the Enabling Act, above quoted, do undoubtedly give title to the State of Montana to the land in question together with all buildings and improvements thereon.

The complete history of the penitentiary grant has been presented to the State Historical Library.

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## THE LATEST FEDERAL SCHOOL LAND GRANT GIVES SECURITY TO OUR TITLE TO THE FORMER GRANTS AND ADDS TO OUR WEALTH.

(Senate Bill No. 564 approved Jan. 25, 1927.)

Up to January 25, 1927, Montana's title to its school land sections was insecure and unsatisfactory. The same condition prevailed in numerous other states of the Northwest. Montana, North Dakota, South Dakota and Washington received their Federal Land Grants through the same Act, being the Act admitting these states into the Union, approved February 22, 1889. Through this Act each one of these states was granted sections sixteen and thirty-six of each township for the support of public schools. Additional grants of land in quantity were made for the support of higher institutions of learning, for the erection of public buildings and for other purposes.

But the grants were not made entirely without reservations and restrictions. Ever since the first school land grant, made by the Continental Congress on May 20th, 1785, it has been the policy of the Government to reserve the mineral lands from its school land grants. Section 18 of our Enabling Act embodies this policy and reads as follows:

"That all mineral lands shall be exempted from the grants made by this Act. But if sections sixteen and thirty-six, or any subdivision or portion of any smallest subdivision thereof in any townships shall be found by the department of the interior to be mineral lands, said states are hereby authorized and empowered

to select, in legal subdivisions, an equal quantity of other unappropriated lands in said states, in lieu thereof, for the use and benefit of the common schools of said states."

There are certain facts and circumstances that have conspired to make this exemption highly prolific in producing uncertainty, insecurity and trouble. To begin with, the word "mineral" is a very comprehensive term, and it seems to have widened under the interpretation given it both in court and out of court.

At the present time it unquestionably includes oil and gas; stone and gravel and clay are unquestionably of mineral character, and if some particular stone or clay should prove highly valuable, the school land containing it would probably have been subject to the mineral exception.

It will also be noted that it is left entirely to the Department of the Interior to determine whether any of the lands are mineral or not, and that there is no limitation as to the time when the Department may find the lands to be mineral. No provision is made in the grant for issuing deeds or patents or other evidence of title to the states for the lands granted. As a result there was no definite proof that the states had actually secured title. It remained open to question both by the Federal Government and by individuals. It also appears that of late the Government has become rather parsimonious in the disposition of the public domain. With the exception of the scattering remains, the entire continent has been disposed of at a price approximating the cost of giving it away. But in later years the Government was inclined to repent of its prodigality, and the Northwest became both the beneficiary and the victim of this repentance.

In the case of school sections that were surveyed before a state was admitted into the Union and the plat of the survey was unconditionally approved by the Commissioner, the title would vest in the state when it was admitted into the Union, if the land was not known to be of mineral character at that time. In the case of school land sections surveyed after the state was admitted into the Union, the title would pass to the state when the survey was approved by the Commissioner of the General Land Office, if the land was not known to be of mineral character at that time. Increased insecurity in the title so indefinitely vested arose from the fact that the Department of the Interior claimed the right to inquire into the mineral character of the land for an indefinite period after the time of surveying. In a letter written by Hubert Work, Secretary of the Interior, to Robert N. Stanfield, the Chairman of the Committee on Public Lands and Surveys of the Senate, on January 5, 1926, the Secretary makes this observation:

"There is no statute of limitation which prevents inquiry at any time as to whether or not title to school section land has vested in a state, either by way of a Government proceeding or by private contest or protest. It is clear, therefore, that in the absence of some provision by which the known condition of the

specified sections, at the time when the grant takes effect, can be ascertained and adjudicated, the title of the State must remain in doubt and be subject to attack."

In a similar communication from E. C. Finney, First Assistant Secretary of the Interior, dated August 11, 1922, the Assistant Secretary makes this statement:

"There is no statute of limitations which prevents inquiry at any time, whether it be 1 year, or 50 years after the grant, as to whether a particular section 16 or 36 was known to be mineral at the date of the grant or of survey. Such cases have arisen very many times in the past and are continually arising."

This bad situation was made desperately bad by the meaning that the Government expressed by the words "known to be mineral." If the geological structure was such as to give strong indication of any mineral, the Government would hold that the land was "known to be mineral" at the time of survey.

It must be evident from these circumstances that the title to our school land grants has been insecure and in every way unsatisfactory. For these reasons the Northwestern States had through a number of years carried on a continuous struggle endeavoring to secure legislation from Congress that would improve our school land titles. Senate Bill No. 564, signed by the President on January 25th, is the result of this long struggle. The bill in its entirety is as follows:

**Public—No. 570—69th Congress.**

**(S. 564)**

An Act Confirming in States and Territories title to lands granted by the United States in the aid of common or public schools.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, subject to the provisions of subsections (a), (b), and (c) of this section, the several grants to the States of numbered sections in place for the support or in aid of common or public schools be, and they are hereby, extended to embrace numbered school sections mineral in character, unless land has been granted to and/or selected by and certified or approved, to any such State or States as indemnity or in lieu of any land so granted by numbered sections.

(a) That the grant of numbered mineral sections under this Act shall be of the same effect as prior grants for the numbered non-mineral sections, and titles to such numbered mineral sections shall vest in the States at the time and in the manner and be subject to all the rights of adverse parties recognized by existing law in the grants of numbered non-mineral sections.

(b) That the additional grant made by this Act is upon the

express condition that all sales, grants, deeds, or patents for any of the lands so granted shall be subject to and contain a reservation to the State of all the coal and other minerals in the lands so sold, granted, deeded or patented, together with the right to prospect for, mine, and remove the same. The coal and other mineral deposits in such lands shall be subject to lease by the State as the State legislature may direct, the proceeds of rentals and royalties therefrom to be utilized for the support or in aid of the common or public schools: **Provided,** That any lands or minerals disposed of contrary to the provisions of this Act shall be forfeited to the United States by appropriate proceedings instituted by the Attorney General for that purpose in the United States district court for the district in which the property or some part thereof is located.

(c) That any lands included within the limits of existing reservations of or by the United States, or specifically reserved for water-power purposes, or included in any pending suit or proceedings in the courts of the United States, or subject to or included in any valid application, claim, or right initiated or held under any of the existing laws of the United States, unless or until such application, claim, or right is relinquished or cancelled, and all lands in the Territory of Alaska, are excluded from the provisions of this Act.

Sec. 2. That nothing herein contained is intended or shall be held or construed to increase, diminish, or affect the rights of States under grants other than for the support of common or public schools by numbered school sections in place, and this Act shall not apply to indemnity or lieu selections or exchanges or the right hereafter to select indemnity for numbered school sections in place lost to the State under the provisions of this or other Acts, and all existing laws governing such grants and indemnity or lieu selections and exchanges are hereby continued in full force and effect.

Approved, January 25, 1927.

It will be noted that it grants **"numbered school sections mineral in character"** in addition to the non-mineral sections already granted. According to the Secretary of the Interior, the bill affects the school land titles of Arizona, California, Idaho, Montana, Colorado, Nebraska, New Mexico, North Dakota, Oregon, South Dakota, Utah, Washington, Wyoming and to some extent the state of Florida.

It appears from the wording of the bill itself that it is regarded as making an additional grant to those heretofore made. As the prior grants embraced all the numbered sections **non-mineral** in character, and as this new grant embraces the numbered sections that are **mineral** in character, it is evident that all the school sections **"in place"** have now been granted to the states, subject only to the provisions stated in the new grant.

What are the provisions to which the new grant is made subject?

The main provision of subsection A is that the title to the numbered mineral sections shall vest in the states at the same time and in the same manner as title vests in the states to the non-mineral sections. In other words, we get immediate title to all sections surveyed prior to January 25, 1927, the date when the new act took effect. As to sections thereafter surveyed, we get title when the survey thereof has been unconditionally approved by the Commissioner of the General Land Office.

Subsection B provides in effect that the states shall not sell the mineral deposits with the land itself, but that all sales, grants, deeds and patents for any of the lands so granted shall contain a reservation to the State of all coal and other mineral in the lands, together with the right to prospect for, mine and remove the same. The states are authorized, however, to lease the mineral deposits on terms to be prescribed by the State Legislature. The proceeds of rentals and royalties under such leases shall be "utilized for the support or in aid of the common or public schools." This reservation of the mineral in the land for the benefit of the State itself is in full harmony with the policy now pursued practically throughout the entire civilized world, and will undoubtedly make the additional grant far more valuable to the states than it would have been without such reservation.

Subsection C exempts from the new grant, lands included within "existing reservations" of the United States, embracing Indian and Military Reservations, Petroleum Reservations, National Parks, National Forests, and so forth.

It should be understood that the Act applies only to **numbered school sections in place**. In the majority of the Northwestern States, this means sections sixteen and thirty-six; in the state of Utah it means sections two, sixteen, thirty-two and thirty-six. The Act makes it very plain that it does not in any way "increase, diminish, or affect the rights of states under grants other than for the support of common or public schools by numbered school sections in place." It does not apply to lands selected in lieu of school sections that for any reason have been lost to the states, and it does not apply to the other lands granted to the states.

What about the State's title to these other lands? The State of Montana was granted approximately two-thirds of one million acres for the support of its higher educational institutions and for public buildings. These are not affected by the new grant. The State has also lost more than one and one-half million acres of sections sixteen and thirty-six for which lieu lands have been selected, making a total of more than two million acres of the lands granted to the State of Montana which are not affected by the new grant.

What about our title to these lands? It should be understood that all these lands were selected tract by tract, and that before the selec-

tions were approved by the General Land Office each tract was passed by the Government as non-mineral in character. When the land selected was passed as non-mineral and it was found that no objections of any nature existed, the selections were then approved by the Secretary of the Interior and "clear listed" to the State. The Department of the Interior holds that these clear lists are equivalent to patents. In an official statement issued on January 8, 1927, relating to the new land grant, the Secretary of the Interior has this to say in regard to the title of the States to lands so selected:

"These matters are adequately covered by existing law, and if and when selections, indemnity, or exchanges are found by the Secretary of the Interior to be of the character and subject to the provisions of existing law governing same, same are approved or certified to the State by the Secretary of the Interior. This certification or approval has been construed by this department and by the Attorney General as equivalent to a patent; that is, that after approval or certification, it cannot be set aside except by proceedings in the courts on the ground of fraud. There is therefore no uncertainty as to such titles, but it was deemed advisable to make it clear in this bill that the provisions of all existing laws affecting such matter remain in full force and effect."

The conclusion of the whole matter is this: That the states of the Northwest now have good title under old statutes and under the rulings of the Department of the Interior to all lands selected where the selections have been approved by the Secretary of the Interior and clear listed to the respective states. With the exception of the few school sections under pending litigation with the Government, the states of the Northwest have secure title under the new grant to all of their school land sections in place in so far as the lands have been surveyed and the survey approved by the Commissioner of the General Land Office.

The latest Federal land grant means security to the states of the Northwest in their title to the school land sections. Security is one of the great objects of government. But it means more than this; it means a great increase in the wealth of the states as represented by the Federal Land Grants. Upon the State of Montana, with its splendid coal deposits underlying thousands of acres of state lands, with its rich and yet uncharted oil fields, and its vast stores of gold, silver, copper, precious stones and other valuable minerals, this additional land grant will ultimately bestow millions upon millions of enduring wealth.

### NEW LEGISLATION NEEDED

1. A Few Amendments should be made to Chapter 60 of the 1927 Session Laws; the State Board of Land Commissioners should be given the power to provide for public leaseings of State lands throughout the various counties whenever such procedure is deemed necessary. A plan for such public leaseings was embodied in the original bill now embodied

in the said Chapter 60, but was lost in the legislature. Experience has abundantly demonstrated that we cannot always render satisfactory service to prospective lessees through correspondence alone. The information as to what lands are available for leasing, the amount of rentals and terms and conditions on which the lands may be leased, should be made more easily available, and public leaseings would unquestionably be the best method. Legislation on this subject is urgently needed.

A few other amendments to the said Chapter 60 also appear advisable, and all of these amendments could be embraced under one short bill.

## **2. Amendment of Section 2, Article XVII of the State Constitution.**

Under the provisions of this section of the Constitution as it now stands, all State lands within the limits of any town or city, or within three miles of such limits, "shall be sold in alternate lots of not more than five acres each." The Supreme Court of the State has defined the meaning of the words "town or city" as here used, and under this definition it appears that any platted townsite with a post office and a few places of business and residences constitutes a town or city.

Considering the great number of such towns or cities now found within the boundaries of the state, it will readily be seen that these provisions for selling all State lands within three miles of their limits in alternate lots of not more than five acres each, constitute a serious difficulty in the sale of the lands. At the present time, the effect of these provisions is directly opposite to what was intended. It deters people from bidding on lands so situated. These provisions of the Constitution should therefore be repealed.

Being that an amendment is necessary, it may also be the part of wisdom to embody in the proposed amendment such other pertinent changes relating to State lands as experience and development subsequent to the enactment of the Constitution appear to recommend.

A proposed bill on this subject has already been prepared by this department; and this bill, together with considerable explanations, is now being studied by State officials and public-spirited citizens throughout the State.

## **3. Settlement With the Public School Permanent Fund for Money Invested in Farm Loans**

On July 1, 1928, the total unpaid investment in State farm loans was \$4,433,904.77. Only a small fraction of these investments is being repaid to the State according to the terms and conditions of the original loans; the State has found it necessary to pay taxes and other costs exceeding half a million dollars in order to protect its title to the mortgaged lands, and the estimated amount of delinquent interest on June 30, 1928, was \$950,000.00. (See Table No. IX, Condition of State Farm Loans June 30, 1928, and the discussion following.) The general state of these investments is such that they do not constitute a satisfactory investment for the Public School Permanent Fund.

This investment, like other investments from the Public School Permanent Fund, is guaranteed by the Constitution against diversion or loss, and it appears that this guarantee should now be carried into effect.

A proposed bill on this subject has already been prepared by this department for the consideration of the State Board of Land Commissioners, members of the Legislative Assembly, and all other interested persons. It proposes that the State itself shall take over the farm loans, all the lands to which the State has taken title under these loans, and all rights and equities whatsoever arising in connection therewith. It is proposed that the State shall pay interest on the amount invested in such loans at the rate of  $4\frac{1}{2}\%$  per annum, and both the interest and the principal are to be repaid from the loans and assets taken over by the State as far as that can be done, and as rapidly as the collections will permit.

### Legal Assumption Involved

The proposed bill assumes that under the plain provision of Section 3 of Article XI of the Constitution the State is liable for the safe-keeping of the public school permanent fund. The liability for the repayment of the amount invested in farm loans is therefore created by the Constitution itself and not by the proposed act. For these reasons the taking over of the farm loans on the part of the State does not constitute a violation of Section 2 of Article XIII of the Constitution. It cannot be unconstitutional to carry into effect the provisions of the Constitution. The entire plan rests on this basic assumption; if this assumption is erroneous, the whole measure will fall.

### Simple and Advantageous Both to the State and the Public School Fund

The proposed bill insures to the public school fund interest at the fixed rate of  $4\frac{1}{2}\%$  per annum on the actual investment. Under the present condition of the loans it is often difficult to calculate what part of a collection is interest and what part is principal for the reason that when loans are foreclosed and the lands resold, unpaid interest on the original loan is included in the principal of the thirty-three-year amortization contract. Unless a settlement along the lines proposed is adopted, this condition will become more and more complex as the years go by.

It would fix the amount of the loans so permanently that the numerous changes in the various assets representing the loans through foreclosure proceedings, payment of taxes, sales, cancellation of sales contracts and resales would never bring into doubt the actual and exact amount of the investment.

By permitting the State to apply the collections from time to time made on interest and principal it would enable the State to extinguish the principal just as fast and just as slow as the collections permitted.



Probably no better repayment plan could be devised for the State. And on account of the constant investments now being made from the public school permanent fund, these irregular repayments on principal would not be detrimental to the fund itself.

Taken as a whole, it is thought that the proposed bill embodies a simple, honest and workable plan of settlement. It should also give to the officers and people of the state the satisfaction of knowing that they have endeavored to discharge with fidelity the sacred trust assumed by them of safekeeping the public school permanent fund.

#### 4. Proposed New Farm Loan Act

The present State Farm Loan Act as found in Sections 1929 to 1948 of the 1921 Code, and amendments thereto, has proved wholly unsatisfactory, and only five new loans have been made under its provisions subsequent to 1921; not one single new farm loan has been made since 1924. This act should be amended or repealed, or an entirely new act should be written in its place.

Experience in the farm loan business throughout the civilized world has demonstrated that local agencies, assuming a considerable portion of the responsibility in making the loans and attending to the collections of interest and principal, are absolutely necessary. No such agencies are provided in the old act.

A comprehensive measure has been prepared by this department endeavoring to deal with this difficult subject, and is now being studied by financiers, public officials and other interested persons. The main justification for the proposed act is that it would widen the investment field for the permanent funds under the administration of this department, and thereby help to bring better interest returns. As the business of this department is gradually developing into a huge loan business, the problem of making safe loans yielding a satisfactory rate of interest is gradually becoming the one overshadowing problem.

The proposed measure provides efficient local agencies by utilizing the existing county governments; guards against excessive loans by making the average assessed valuation of the lands offered as security the basis for calculating the maximum amount allowable; employs the amortization plan of repayment, and has a number of other meritorious features. Before it could go into effect, it would, however, require an amendment to Section 1 of Article XIII of the Constitution.

It is hoped that this comprehensive plan, formulated after considerable study and investigation, may serve as the basis for discussion in working out a satisfactory measure dealing with this difficult problem.

Unless the present defective farm loan act is improved, or repealed, or a new act is provided in its place, the time will undoubtedly come when the state farm loan business will be resumed under the old defective plan and more trouble will ensue.

### 5. A Unified Investment Plan

Outside of the large permanent funds arising from the Federal Land Grants, there is a considerable number of more or less permanent funds under the administration of various State boards and officials; there is also a number of public funds for which no investment agency whatever has been provided.

Experience has abundantly demonstrated that it is difficult to find suitable investments for small amounts when they have to be invested separately. This difficulty is aggravated by the circumstance that under the present excellent state plan for repaying bonds and mortgages, these repayments are made in small amounts under the amortization plan. In most cases it would be next to impossible to find suitable investments for these small repayments as the same are made.

A plan has therefore been worked out and embodied in a proposed bill under which any number of small amounts may be invested as one common fund under the jurisdiction of the State Board of Land Commissioners, the joint fund to be known as the Montana Trust and Legacy Fund.

It should be understood that this joint investment would not scramble the funds. Each fund would maintain its separate existence. The proposed bill does not meddle with the use and expenditure of the various funds themselves; it deals with their investment and accumulation; their use and expenditure would remain governed by present statutes.

Ample constitutional authority for the proposed plan is contained in Article XXI of the Constitution, being Chapter 134 of the 1923 Session Laws. (See especially Sections 1, 4, 5, 10, 11, 17 and 18 of the said article.)

#### **The Arguments in Favor of the Unified Investment Plan May Be Briefly Stated as Follows:**

1. The State Board of Land Commissioners already has large permanent funds under its administration. Through the provisions of our statutes and through the millions of dollars in bonds that it now holds, it is in constant touch with new bond issues throughout the state. It has developed facilities for handling investment business and has acquired some knowledge of investment problems and procedure, and is therefore better qualified to handle investments than a board or officer lacking this knowledge and experience and the special facilities for handling this kind of business.

2. Special safeguards are provided in the Constitution and in this proposed bill protecting the Montana Trust and Legacy Fund; under the provisions of Section 17 of Article XXI of the Constitution, the Justices of the Supreme Court are constituted a supervisory board over the entire administration of this fund. These safeguards are not available for the separate investment of the individual funds of which it is made up.

3. The joint investment will permit a much fuller utilization of the various funds; the small balances belonging to the separate funds might not be large enough for individual investments, but taken together they can be advantageously invested. In fact, a small fund is very likely to be entirely overlooked and neglected under the old plan of separate investments.

4. Under the unified investment plan all funds large and small will receive the same attention and the same advantage of good investments and receive the same rate of interest.

5. Under this plan each fund is automatically insured against loss to the full extent of the aggregate amount of all the funds. In case of loss, the loss will automatically distribute itself among all the funds; no fund will be extinguished unless all the funds are extinguished.

6. While it allows a closer investment of each and all funds, it also makes each fund better able to meet any sudden demand upon it, as the entire cash balance belonging to all the funds is available to meet any emergency. If the necessity should arise of selling securities to meet any sudden demand for cash, the securities most readily marketable at that time could be disposed of.

7. It will require less bookkeeping to keep track of these joint investments than it would do to keep record of separate investments for each individual fund.

The unified investment plan does not represent a new-fangled idea; it is not an untried scheme; on the contrary, it is a tested plan that has been followed by every bank and banker throughout civilization for centuries. How could a banker transact business if he had to find a suitable investment for each separate deposit? The unified plan has been found absolutely necessary for investments made by banks and bankers. This bill proposes to apply the same plan to investments under the administration of the State.

It is hoped that workable legislation along these lines would put into operation the comprehensive finance plans embodied in Article XXI of the State Constitution, and that it would greatly encourage bequests and devises for the support and maintenance of the State University and for benevolent and charitable purposes. Bequests and endowments of this nature are constantly growing in number and importance throughout the United States and all of the civilized world.



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